Dr. Shields: Well, I think it is some of both. We have some cases in the hospital now that the consultant is whoever they wish to call. As I understand, the company doesn't always promise them the different consultants that they wish; they have to bear some of that expense. They are free to have whoever they wish in any case.

Dr. Martzloff: Who are your men whom you customarily use as consultants?

Dr. Shields: I think that depends entirely upon the case and who the patient wishes. If he has any choice I generally take it up with the company and whoever they want they can have.

Dr. Kiehle: The consultants aren't on a flat salary then?

Dr. Shields: No, not as far as I know.

Dr. Kiehle: Do they pay retainers to certain types of doctors?

Dr. Shields: I don't think so.

Chairman Sears: There has been an interesting
8544 thing in that respect, that while the various hospital associations say that they permit the individual to make his own choice, but there is a monotonous frequency with which the same consultant is called in for an individual hospital association.

Dr. Shields: Well, that is true to a certain extent, but on the other hand I really feel that it is quite liberal in these cases that we see.

Chairman Sears: The company is in the habit, though, are they not, of naming the consultant that they prefer?

Dr. Shields: Yes, that is true, but if for any reason we suggest someone that we feel would be better qualified it is often allowed.

Dr. Martzloff: Nevertheless you do have a certain group of consultants that do the consultation work when consulation is needed? You don't let them go to whoever they wish?

Dr. Shields: No.

Dr. Martzloff: Ordinarily you have pretty much the same ones?

Dr. Shields: Yes.

Dr. Martzloff: You don't know who they are?

Dr. Shields: I will be very frank to admit that I do. I have no objection to mentioning some of these men, but I would rather not right now. I want to be perfectly frank about the whole business, but I think that it is not
8545 up to me to mention these men unless they want to admit it themselves. There are plenty of men that do that type of work, I admit that.

Dr. Kiehle: Each time some employe goes to one of those men there is an individual bill sent by that consultant?

Dr. Shields: As far as I know, yes.

Chairman Sears: Where is the X-ray work done? Do they have their own plant?

Dr. Shields: We do have our own plant for emergency work, that is, for fingers and arms and if we are in doubt as to the X-ray we refer it to one of the X-ray laboratories. It is largely for our own help in treating small fractures and chests and so forth.

• • • • • •

Dr. Mount: Do you have a contract with any of the X-ray men?

Dr. Shields: I don't believe so.

Dr. Mount: That is, they go to whomever you think is best suited?

Dr. Shields: On a fee basis, yes. I wouldn't say they go to whoever they wish; we generally send them to one or two of the laboratories here.

Chairman Sears: They don't pay the same rates —

Dr. Shields: I think they are the same as State rates.

Chairman Sears: I mean they wouldn't pay the
8546 same rate as if I sent a patient to the same laboratory?

Dr. Shields: I have sent private patients there and there is very little difference in the rate.

Chairman Sears: That might be if you sent them, but not if I sent them.

Dr Shields: Well, I am not sure as to that. I think that is true with any doctor; the laboratory makes a certain fee based partly on the amount of work he sends.

• • • • • •

Chairman Sears: How about their drugs? Doesn't the hospital association get a discount on their prescriptions?

Dr. Shields: I imagine they do. I will admit we send them mostly to two drug stores and they bill for each individual prescription, I am sure of that, and I imagine it is cheaper than an individual can get it, for the reason that they are paid monthly and on account of the volume they get.

• • • • • •

Dr. Mount: How long have you been with Mr. Weston?

Dr. Shields: I have been there about eight years.

Dr. Mount: Are you entirely satisfied with your relationship?

Dr. Shields: No, not entirely. I think there are a lot of things wrong with the hospital practice and I think there are a lot of good things. I am not entirely satisfied with private practice.

8547 Chairman Sears: Well, which is the more satisfactory, do you think, for you?

Dr. Shields: I like private practice better, largely for the reason that I think I have to put in more work on the others to satisfy them.

Dr. Kiehle: There are very exacting?

Dr. Shields: They are.

• • • • •

Dr. Martzloff: In competing with these other hospital association groups how does your hospital association sell its contracts and get customers from its competitors?

Dr. Shields: Well, I do know that they have one paid solicitor and I suppose that they present different arguments — I don't know what they are, but most of the contracts that they have had they have had since I have been there. They have had Doernbecher, for instance, ever since I have been there; Crown Mills ever since I have been there, and they have secured some new ones but they haven't greatly enlarged their volume in that respect. They do have one paid solicitor that I know of.

Dr. John Adams: Does he solicit on a commission basis or a salary?

Dr. Shields: I think it is a salary, although he may get some commission.

Dr. John Adams: Is he permitted now to solicit

8548 any individuals?

Dr. Shields: I don't believe he does. I may be mistaken in that.

Dr. John Adams: You haven't seen any new individuals come in the office on a contract?

Dr. Shields: They may be getting a few, but as I say, we have always fought that, and I think with some success. I think they are attempting to discontinue that. We do have many men that have been under the group coverage that come in later after they leave the plant and want insurance, and they have taken them.

• • • • •

Dr. John Adams: Do you think the Code of Ethics that the A.M.A. has set down for hospital practice is sound philosophy?

Dr. Shields: I think that, as in other changes in trend of politics, should be changed to a certain extent. I think business demands that there is going to be some change, and whether we stop this work or not is immaterial. There will be someone else, I am certain, that will come along and do it and in the end they will still have hospital associations, and I feel that it is better to have someone there that is at least attempting to give honest service than many of these that are solely for financial
8549 reasons.

Chairman Sears: Do you feel that business is going to demand it?

Dr. Shields: I do, yes. I think many of the large plants will, because they certainly give us that impression at this time.

Chairman Sears: They are doing it because of their peculiar interest for the welfare of the patient per se?

Dr. Shields: I think many times it is.

Chairman Sears: Well, is it a business proposition?

Dr. Shields: I think it is financial without question, but on the other hand it is not all financial. I am confident that Mr. Green out at Doernbecher's is interested in seeing that his men get good care.

Chairman Sears: Does Mr. Green employ those physicians himself?

Dr. Shields: No, he contracts through the Weston Company.

* * * * *

Chairman Sears: Have you read the Code of Ethics of the American Medical Association?

Dr. Shields: Yes, sir.

Chairman Sears: You are quite familiar with it?

Dr. Shields: Yes, I am.

Chairman Sears: You then are familiar with the fact that the hospital association that you are associated with violates it very definitely?

Dr. Shields: I think it does — some of their codes it does.

8550 Chairman Sears: Do you feel that taking it all in all; in other words your neighbor doesn't get any contracts — you have a good many neighbors — and he would like to do some of that work too. The men in the hospital associations have the advantage over their fellows.

Dr. Shields: Well, I think that is one disadvantage. I

agree with you there. I myself would like to see it spread around more.

Chairman Sears: The American Medical Association is composed of men from all of the states and they have gone into this thing very broadly and have given it careful study over many years and have worked out these policies for the benefit of the rank and file of the American Medical Association, and so they have formulated this Code of Ethics. Do you believe that they are right to the extent that if they would demand it you would give up your contract work?

Dr. Shields: Well, I think that if all men were to do that we would, that is, if they would be absolutely open and above board about it that we would. We work for this hospital association; we don't try to conceal it, and I believe if all men would come out in the open and give it up we would probably all be better off, and I think Dr. Beck and myself both would be willing to do that, but just for a matter of information I would like to know what they plan to offer as a substitute for these groups
8551 like we take care of, and if we go out is there anyone else here going to take that type of work, or will it be discontinued?

Chairman Sears: That of course is going to be a question. Those who hold their membership in the societies that are components of the American Medical Association are going to be unable to carry on that work insofar as it violates the Code of Ethics of the American Medical Association. Now it wouldn't be possible to control all individual doctors because some might choose to continue to practice anyway outside of the fold of the American Medical Association, so therefore we couldn't speak for all doctors, but so far as the component units of the American Medical Association, they will have to as far as it violates the Code of Ethics of the American Medical Association.

Dr. Shields: Of course I realize that is the ideal thing and that is what you are all working for, but that doesn't necessarily mean that that is going to be accomplished, or some of the men that are quite strong in the American Medical Association are going to discontinue their practices. Now you know as well as I know that there are a large number of men that are doing this type of work and I think have done it real recently in the last few months since it has been under question, and I think if it hits one it ought to hit all. As I said before, it is im-

material to me; I think I can get along very well with private work and I think I can get along a lot easier, but there are certain factors about the work I do en-
8552 joy. I enjoy the work, but it has got its weak points.

• • • • •

Dr. Martzloff: Don't you feel that if it were not for the fact that you had an employed solicitor a lot of the work that you are now doing you wouldn't be doing?

Dr. Shields: I think that is true.

Dr. Martzloff: It comes through solicitation?

Dr. Shields: I suppose originally, yes, but what I mean, since we have been there I know we have been asked to have it renewed each year.

Dr. Martzloff: But you have a paid solicitor, don't you?

Dr. Shields: Yes, they do.

Dr. Martzloff: What I am getting at — the only purpose of this meeting is to have just a friendly informal discussion, and the other point is to ask you whether you don't feel that solicitation is unethical.

Dr. Shields: I think that it is, according to the Code of Ethics. I don't think there is any argument there.

Dr. Martzloff: This is a voluntary association, and when you come into the association you come in with the definite understanding of conforming to the Code of Ethics of the American Medical Association.

Dr. Shields: Surely.

Dr. Martzloff: And if you admit that some of the work that you are doing through the action of the company for which you are working is unethical don't you
8553 feel that you are probably violating a promise on which you came into the association?

Dr. Shields: Yes, I think we are partly, but of course we are governed largely by the things that the other members are doing.

Dr. Martzloff: But we are talking about you right now. We can't discuss all the members at one time.

Dr. Shields: I realize that.

Dr. Martzloff: Would you be willing to help your association —

Dr. Shields: I might be able to do that. I certainly feel that I should be entitled to a little time, because I promised to be there for a certain length of time and I feel that a person should at least carry out their part of the contract with them if you have made an agreement.

Dr. Martzloff: You don't feel that you should be put on the spot and everybody else allowed to go scot free?

Dr. Shields: I don't think that for a minute.

• • • • •

Dr. John Adams: Do you think the American Medical Association or this society is working for an ideal that is worth working for?

Dr. Shields: Yes, I do, but I think they are wrong in certain things — not that the Medical Association is wrong; it wouldn't do me any good to get up here and tell you that I feel differently, but on the other hand I certainly respect the Association and I am not saying that I wouldn't resign from this type of work, because I may, but —

8554

Dr. John Adams: You want to be convinced that this thing is genuine and far-reaching?

Dr. Shields: Yes. If I make a decision I am going to stick by it, I am not going to change my mind or go out and do work after I have said I won't.

Dr. Martzloff: We know you are a man of your word and we have confidence and respect for you, and I think it will all come out in the wash.

Chairman Sears: We want to thank you for your full, open, and frank discussion, and we certainly want to compliment you on your attitude. Is there anything else that you want to ask?

Dr. Shields: As I say, naturally I would like to have time to think this over. We knew we would be called up here. We haven't discussed it much between ourselves. Dr. Beck and I have been there together, but we have discussed it very little except that we went out together at dinner tonight. I have agreed to stay there a certain length of time and I will have to stay there.

Chairman Sears: How long did you say you would stay there?

Dr. Shields: I told them that I would be there until the first of March.

• • • • •

8555

Dr. Mount: Do you feel as Dr. Shields does?

Dr. Beck: Yes.

Dr. Mount: You are in accord with what he has said?

Dr. Beck: Yes, fully.

Dr. Mount: Do you have any different feeling about any of these things.

Dr. Beck: No, not in any major way at all.

• • • • •

Plaintiff's Exhibit 1919

8556 BEFORE THE BOARD OF CENSORS
of the
MULTNOMAH COUNTY MEDICAL SOCIETY

IN RE:
Dr. C. C. Moore,
Dr. H. R. Shields,
Dr. Wm. F. Beck

TRANSCRIPT OF PROCEEDINGS
at
Meeting Held December 9th, 1936

ROSCOE F. HUNT
Official Reporter - Notary Public
304 Court House . Phone Atwater 5221
Portland, Oregon

8557 BEFORE THE BOARD OF CENSORS
OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY

IN RE:
Dr. C. C. Moore,
Dr. H. R. Shields,
Dr. Wm. F. Beck

A meeting of the Board of Censors of the Multnomah County Medical Society was held in the offices of the Society, Medical-Dental Building, Portland, Oregon, Wednesday, December 9th, 1936, at 7:30 o'clock p.m.

Present: Dr. Chas. E. Sears, Chairman,
Dr. Robert L. Benson,
Dr. Frank R. Mount,
constituting the Board of Censors.
Dr. John C. Adams, Secretary of the Society,
Clyde C. Foley, Executive Secretary.

Dr. Sears: The meeting will please come to order, and I will say that Dr. Chester Moore has communicated with me as chairman of the Board of Censors, requesting another opportunity to discuss certain phases of his contracts, and the three members of the Board of Censors have agreed to extend a short continuation in the case of Dr. Moore. He will be notified in the near future as to the date of this meeting.

At the last meeting of the Board of Censors, Dr. Shields and Dr. Beck requested time to study the transcript
8558 of the preceding meetings, thus giving them the opportunity to elaborate upon previous discussions or to answer any objections to their procedures, or to discuss any new objections or evidence that may be introduced at this meeting. Dr. Shields, you have had an opportunity to read and think over the matter contained in the transcript?

Dr. Shields: I have.

Dr. Sears: Have you something else that you would like to discuss?

Dr. Shields: Yes, sir.

Dr. Sears: Or the whole problem that you would like to discuss further tonight?

Dr. Shields: Not in particular, no. We studied it over, and we will admit the charges are correct.

Dr. Sears: Dr. Beck, have you anything?

Dr. Beck: No, I don't think I have.

Dr. Sears: Just for my own information and to clear my memory as to a matter discussed at our several meetings, did I understand you to say that you would or could withdraw from the particular medical hospital association, or the hospital association you are associated with after a reasonable period of time?

Dr. Shields: That is our intention yes; provided you are willing to give us a reasonable length of time
8559 to adjust our affairs, we are willing to meet you halfway and do that, but we feel we are entitled to what we consider a reasonable length of time.

Dr. Sears: What would you suggest as a reasonable period of time?

Dr. Shields: We have talked that over in some detail, and we feel that there are probably two phases of it open. Of course at the end of this year we could drop out of the medical society if we wished, or you could put us out, there is no question about that, but on the other hands, we are willing to continue, because we feel that we are not doing anything that many of the other men are not doing, but we are not anxious to have this made public and we are not trying to embarrass the medical society in any way, but at least during the course of the next year or possibly less we are willing to give our word that we can withdraw, and if that is agreeable with you, that is what we would, — will do.

Dr. Sears: What period of time, without stating the exact date, but roughly, a general idea?

Dr. Shields: Dr. Beck went to work for them in July, I believe, was it not?

Dr. Beck: Yes.

Dr. Shields: Of course at that time it was on a yearly basis. There is one purely personal reason I am anxious to stay, is that they owe me some money, and I am anxious to get that before I leave, which I feel would be impossible to do after I leave. We feel that the Medical Society has obtained its objective if we quit the work. Of course, I feel, too, there will be other men take our places, but that is neither here nor there. If we have sufficient time to clear it up and give our word of honor that we will do it, that is our answer to the whole charge.

8560

Dr. Sears: That date would be approximately the first of July, or in July?

Dr. Shields: Well, what do you think, Dr. Beck?

Dr. Beck: Well, it is just a little difficult to set an exact date at the present time, but I would say it would probably be between six and eight months, at least.

Dr. Shields: We feel there are any number of men doing this type of work, and I am certain that they will not be out in that length of time, all of them. I don't know what disposition you feel toward the members of the Multnomah Hospital Association, but I am sure that they will not be, and I feel that if we have time to adjust our affairs, which require sometime, naturally, we are willing to give our word that we will do that.

Dr. Sears: Dr. Adams, do you have anything you want to say? (Dr. Richard B. Adams, member of the Grievance Committee had entered the hearing room shortly previous.)

Dr. Richard B. Adams: The whole matter seems to hinge upon what is a reasonable length of time, and it would be difficult for anyone in this room to pin down the exact minute or hour, or define a limit of a reasonable length of time. I feel that we should have, perhaps, a little more definite information as to the approximate date that you would be able to withdraw, because the Board of Censors will be under the necessity of making a recommendation to the Council, and they will have to have something rather concrete to go with it.

8561

Dr. Mount: Is there any contractual arrangement that would suggest a time?

doing its duty and is not carrying out the mandates of the Society; "What is the matter with you?"

Dr. Mount: I think Dr. Beck has stated his position, and I believe that is all.

Dr. Beck: Well, as far as I am personally concerned it is not going to take me very much longer to get where I could sever the relations and not lose anything financially. Now I can't speak for Dr. Shields absolutely because that is his own private business.

Chairman Sears: Yes, you are answering solely for yourself tonight. As I say, we have slipped the dates on and on. Are you in a position to give us a final date on which you can do this, and which becomes automatic and beyond which further negotiations would be unnecessary?

Dr. Beck: Yes, I could. I am expecting to take about eight months work beginning the first of April, and I wouldn't care to establish offices in town until after I get back. I would say very positively and definitely that after the first of April I expect to take this work, and when I get back I will not be with the C. H. Weston Com-
8569 pany.

Chairman Sears: Have you any questions?

Dr. Mount: No, that is all.

Dr. Payne: Of course there are only three alternatives that the Board of Censors has; accept this as satisfactory, expel from the Society, or suspend from the Society. Those are our three alternatives, and it makes it the more difficult in that you are making a quite definite proposition and at the same time that is covering very nearly a year's time. This dates from November to April, and eight months added will make pretty near a year's time. What would you consider a fair solution of a problem of that kind?

Dr. Beck: Of course in due fairness to the Weston Company I would feel that I should give them two months' notice. We have a sort of a gentlemen's agreement that we will do that. We haven't given it to them before because we thought it would complicate our making final settlement of things, and if I would give them two months' notification at the present time it would run it somewhere in the middle of January —

Dr. Payne: I am not questioning that, Dr. Beck. What I am trying to ask you is, what the hell would you do if you were in our place and this proposition came up to you, that is, from our standpoint? Here we are, having to sit on other people in exactly the same situation. You have

gone on from time to time advancing the date, and now you are advancing it a year. Now what are we to
8570 do in that situation in fairness to you and at the same time in fairness to these other men? I honestly feel that if I were in your place I would ask for a suspension for that time. That merely means that you come before the Board of Censors in the end. That is my personal opinion; it isn't the opinion of the Board of Censors, but it seems to me that you are making promises for the future, and in accepting those the Society feels we have been guilty of favoritism in your case.

Dr. Beck: It seems to me that the primary object and the motive of this is to get the men either to resign from the Society or resign from their organizations, and it seems to me — I can almost guarantee and promise that Dr. Shields will follow me about the same date. Of course as far as his definite arrangements are concerned I couldn't say, but it seems to me that you are really accomplishing the purpose in putting the Weston Company on the spot in a way; that they will have new doctors if we resign, and we will be with the Society.

Dr. Payne: How about the other man that is —

Dr. Beck: The other man is a new man —

Dr. Payne: No, I don't mean that; I mean the man that is brought before the Society on the same business and doesn't give his promise and is quite promptly forced to resign or is expelled. What is his attitude going to be on that?

Dr. Beck: Well, this promise is about as accurate as we could be. It is pretty difficult to make definite
8571 arrangements a long time ahead and absolutely make a satisfactory settlement. At the same time, if we left at the present time we would both lose considerable, and we are not in a position to lose it.

Chairman Sears: All right, we will take this under advisement.

Dr. Payne: Thank you, Doctor.

(Dr. Beck thereupon withdrew, and after an informal discussion off the record the following proceedings were had:)

Chairman Sears: We will reconvene now. We are in session again.

Dr. Mount: I move the adoption of the following motion: It is the consensus and conclusion of the Board of

Censors and the Board of Censors recommends to the Council that:

1. The charges filed by the Grievance Committee against Drs. Shields and Beck have been sustained.

2. Inasmuch as Drs. Shields and Beck have declared their intention to withdraw from their association with unethical practice, that Drs. Shields and Beck be suspended from the Multnomah County Medical Society until April 1, 1938.

3. A copy of the resolution be transmitted forthwith to the Council.

Dr. Payne: I second the motion.

Chairman Sears: You have heard the motion of Dr. Mount and the second by Dr. Payne. If there is no further discussion I will ask those in favor to respond by the usual affirmative "aye"; contrary, "no". It is carried.

8572 In re: Dr. Frank E. Butler.

Chairman Sears: Dr. Butler, you have received your notice and it meant just what was intended on its face. It is a matter of friendly discussion of the matters contained in the letter, and I say frankly that as far as I interpret it, it is a question of your relationships and doing work with any hospital associations that don't conform to the code of ethics of the Society, and I think it would probably be more amicable in every way if you were to just state to us briefly whether you have any associations with a hospital association, and what they are.

Dr. Butler: Why, yes, certainly. I do work for the National and Industrial Hospital Associations, both — have done their X-ray work for the National, practically all of it, I guess, for ten or twelve years, and I have done some work for the Industrial Hospital Association, and I suppose I do work for the other hospital associations through my hospital connections. I don't know who they are or anything about it, but I know they have patients there and I do X-ray work.

Chairman Sears: Do you do your work quite separate from the National Hospital Association? I mean, you don't have your name on any of their literature at all?

Dr. Butler: No, sir, I don't think the National Hospital Association has ever advertised the doctors or any doctors that ever worked for them, to my knowledge; I don't

know. The Industrial did it at one time, and at my
8573 request — as soon as I found it out I requested they take my name off their list and they did so.

Chairman Sears: Are you paid a salary or a flat price for —

Dr. Butler: I am paid a salary at the National for part of my work and paid on piece work for other; a fee for the rest of them. With the Industrial it is just a fee basis. Whatever they send in I do for them the same as I do for anybody else.

Dr. Payne: Is there a discrimination in prices in favor of the hospital association?

Dr. Butler: No, sir.

Dr. Payne: They pay a flat rate on all work done?

Dr. Butler: Yes, sir. I don't give them any discounts that the patients do not receive.

Dr. Payne: That is, that the average patient coming in would pay?

Dr. Butler: Yes.

Dr. Payne: They are simply in the same light as another doctor except in the case of the National where a retainer is paid?

Dr. Butler: Yes, the same as the work I do for them in their own laboratories, reading films.

Chairman Sears: In other words that is your interpretation?

Dr. Butler: My interpretation.

* * * * *

8577 * * * * *

Dr. Adams: Dr. Butler, to clear up one thing, do you interpret any films for the National Hospital Association that are sent in from other parts of the county or from other counties of the state or from out of the state?

Dr. Butler: I do, all over. I pass on all of the films that are taken throughout their contract.

Dr. Adams: You understand the mechanism, as it were, of this particular body, the Board of Censors that sits before you, and the Grievance Committee, consisting of Dr. Hollenbeck, Dr. Lamb and myself?

Dr. Butler: I think I have been familiar with the function of the Board of Censors for something like twenty years, but the Grievance Committee —

Dr. Adams: Well then, I think you should be informed

as to the status of that committee because they pre-
8578 fer the charges if there are charges preferred. They have been appointed by the Council of the Medical Society to investigate, and if they find a reasonable degree of substantiation to complaints that are made, to then prefer the charges against the individuals complained of. If they find them to be false accusations or careless statements, street rumors or what not, then they stop them at that point.

Dr. Butler: Is that the Board of Censors or the Grievance Committee?

Dr. Adams: That is the Grievance Committee. The Board of Censors is the judging body. They asked for the Grievance Committee so they will not have to be both prosecutor and judge, and the Grievance Committee was created by the Council to assist the Board of Censors.

Dr. Butler: Well, just what are the specific charges against me then?

Dr. Adams: The charges have been made in connection with your association with the National Hospital Association, in that you treat patients or render service to patients that have been obtained through the process of solicitation, which is in violation of the code of ethics of the American Medical Association; that you enable the lay stockholders of the National Hospital Association to derive a profit from the compensation received at least in part as the result of your special services; that the manner of conducting your practice and the tendency and ef-
fect is such as to prevent a free choice of physic-
8579 ians in the community, and that you indirectly, by associating yourself with them in their practice, are participating in a form of practice which tends to prevent free choice and reasonable competition in the community, and a part of your practice is obtained indirectly through the process of solicitation, and that a part of the result of your efforts results in financial gain to lay stockholders of the National Hospital Association. The number of complaints received by the Grievance Committee has been very numerous, very large — many of them wholly unfounded. We have investigated all that time has permitted us and have been forced to decide that some of them are wholly without substantiation, but in your particular case —

Dr. Butler: Have any of the rest of the X-ray men been investigated? I think it would be a very easy matter to ascertain if you go up and talk to Drs. Haworth, Rees,

or Woolley; all of them are doing hospital association work and making no bones about it. I think it would be very easy for the investigating committee to find that out, that Dr. Haworth is doing some of Weston's work and making no bones about it; Dr. Rees is doing some of his work and we are doing work for both the National and the Industrial. We are not denying it or making any bones about it or trying to camouflage it as some of the men are, and I think if you ask Dr. Rees or Dr. Haworth, they are all doing the same thing. We are all doing hospital work in the hospitals, and as far as I can see we
8580 will have to continue it. I don't know how we can get out of it and keep our positions as radiologists. Now as far as your solicitation accusation goes, I deny it, first, last, and all times. I would just like to make a few statements here about solicitation, if I may, and I have written it out, because when I get to talking I might talk too much.

Chairman Sears: Pardon me, this is what we want, just a plain, frank expression —

Dr. Butler: Regarding solicitation of patients, it appears to be entirely ethical for the A.M.A. or its local subdivisions to publish articles or give radio addresses urging individuals to consult ethical physicians rather than the irregulars, quacks, or patent-medicine vendors. This can be termed "universal" solicitation for the benefit of all ethical physicians.

Now that is ethical; that is perfectly all right. All right, we are all agreed on that.

In the practice of an insurance company which solicits individuals in selling health and accident insurance that permits the individual thus covered to have free choice of physician, the physician who attends that patient is considered to be ethical.

When an insurance company or hospital association which solicits business covering health and accident, but which designate only certain physicians who may
8581 attend the patient so covered, the physician who does that work is considered to be unethical. Is that correct?

Dr. Adams: I believe so.

Mr. Coughlin: Pardon me, I think that discussion — the Board of Censors is not in a position to commit itself on these various things. If there is any unethical practice engaged in by a man who works for an insurance company or any other company it is the function of the

Grievance Committee and the Board of Censors to investigate that, and not pass on a blanket statement that this man is ethical or the other man is unethical. I think it is very fine to have Dr. Butler read the statement, but I don't think the Board of Censors should commit itself to any policies on it.

Dr. Payne: Could we have that last paragraph again, Frank?

Dr. Butler: When an insurance company or hospital association which solicits business covering health and accident, but which designate only certain physicians who may attend the patient so covered, the physician who does that work is considered to be unethical.

Dr. Payne: Thank you.

Dr. Butler: Considering the above facts, there is only one conclusion that can be reached, namely, that private or group solicitation where there is a restriction as to choice of physician is unethical, whereas "universal" which is for the benefit of all physicians and not to the advantage of any one individual or special group is entirely ethical. In other words physicians it seems
8582 to me, claim that it is all right to educate the public, in other words, they go out and tell people if they are sick to come to the regular physician instead of going to the quack. That is solicitation, but it doesn't designate any group or individuals. This is not soliciting as I understand soliciting. To me soliciting is going out to the public and saying, "If you are sick come to me and I will heal you." That is solicitation as solicitation was meant to be. Any insurance company doesn't solicit sick people. They go out and insure well people and they gamble whether or not the cost of taking care of that individual will be more than they pay. That is insurance, and the other is solicitation.

Now it is my understanding and in fact my certain knowledge that certain insurance companies are writing the same type of insurance as do the hospital associations and that these companies also designate that the work must be done by certain physicians.

It is a well established practice for all life insurance companies which solicit their patrons to require these applicants to be examined by certain individual physicians. That is not a free choice at all; "You have to be examined by my examiner."

To my knowledge none of these physicians have been censored by your board.

Let us now look at the State Industrial —

8583 Chairman Sears: Pardon me, Dr. Butler, you are referring to men who are making examinations for any insurance companies that insure life as well; I mean the routine insurance examination?

Dr. Butler: If they go out and solicit life insurance they will say, "You have to go to Dr. So-and-So to have your examination", don't they?

Chairman Sears: Yes.

Dr. Butler: They specify which doctor you may go to. If you get in an automobile accident and are applying for your damages, to get your money from the insurance company, they say, "Go up and have Dr. Sears examine you", and they would have to go there.

Dr. Payne: That is a protection for the insurance company and not for the individual.

Dr. Butler: Yes, they are specified. That is just a technical point, but there are insurance companies which are doing this very thing.

Now let us have a look at the State Industrial Accident Commission. They not only solicit their business but, by law, force employers to enroll their employes under state protection or some similar type of insurance. Their contract reads, "The S.I.A.C. shall furnish adequate medical and hospital care." That is all it says. Under that contract they have a right to designate any physician

8584 or any group of physicians to do all their work in any given locality. They have done so in the past and are still doing it.

It is through the support of the State Industrial Accident Commission that hospital associations are able to exist, by virtue of their power to grant them contracts to handle their work.

In addition to arbitrarily designating certain physicians to do their work, they also arbitrarily forbid others from participating. For no cause whatsoever the Commission has excluded all roentgenologists in Portland from State Industrial Accident work and require all of that type work to be done in one certain laboratory which is under the direction of a layman.

It appears to be, therefore, that by any line of reasoning, practical or legal, any physician who accepts work from the State Industrial Accident Commission is as guilty of unethical practice as I am for working for the National Hospital Association.

I would have you gentlemen take note of my position.

If I refuse to work for the Hospital Association, my income will be reduced that amount. If I refuse to do Hospital Association work, how will I meet the problem of handling that part of their work that is done in the hospitals where I work? If I refuse to give up Hospital Association work, I am expelled from the Society. Such
8585 expulsion will make it necessary for the hospitals to expel me as their radiologist in order to keep their rating. I do, therefore, face very material financial damage should the Society choose to force their charges.

Now as from the other angle, the layman angle as it applies to my case it is stated policy of the Society to keep laymen out of the practice of medicine. Nevertheless, throughout the years of my practice I have been forced to compete with laymen, who have been supported, in their inroads upon medical practice, by your "ethical" members. During all of these years the medical society has not in a single instance seen fit to even frown on such practice. Furthermore there have been certain "ethical" members of this society who own X-ray equipment, who have invited and permitted members of the profession to use their laboratories on a fee-splitting basis, and others who patronize nonethical fee-splitting laboratories.

I should also like to have you consider the physicians who enter into partnerships with laymen, in name only to give the appearance of ethical standing.

I also want you to know that if I quit the National Hospital Association my work will then be turned over to a layman.

Gentlemen, it appears to me that when, and only when, the Society has corrected the above mentioned abuses, and have put into their by-laws rules making it unethical for their members to follow such practices and are enforcing
8586 such by-laws, should they approach any radiologist or physician operating a clinical laboratory about ethics.

Now Gentlemen, I can say for myself and Dr. Woolley and both the other radiologists, Dr. Haworth and Rees, that we want to play ball with the Society if the Society will play ball with us; we are not out after any fight and we are not hunting any trouble at all.

Chairman Sears: We thank you very much, because this is all very important and very valuable. As far as we are concerned, we are put in a difficult and embarrassing position, and as far as names are concerned there

has been no attempt to go after this, that, or the other individual, the idea being that all individuals will be reached as the process develops. Our purpose here with you is to try to get a statement of affairs, exactly as you have done. I think what you have stated to us is very important and very helpful, and the only way you can get any place is to get an expression of opinion. All of this is done solely for the benefit of the medical practice as a whole so that all men may be given a chance as far as they are capable of ethical practice.

Dr. Mount: I think you have made a very good presentation, and that probably represents the feeling of the other X-ray men too.

Dr. Payne: That expresses their opinion for the last twenty years. Frank; I have been listening to it.

Dr. Adams: Dr. Butler, you weren't singled out
8587 as the only X-ray man to be questioned concerning your practice. We as a committee have had handed to us a mandate from the Society. We have no discretion ourselves in handling this duty; we must consider all complaints that are made. We cannot consider them all at the same time and at once. It may work undue hardships perhaps on certain individuals that happen to come first. We have had to consider complaints on the basis of their priority and on the basis of the number and the apparent gravity and give some consideration at the same time to the complainer. The complaints have been numerous, and the other practices that you have mentioned undoubtedly exist, and wrongfully so. In reference to some of the matters you mentioned, we do have complaints remaining to be investigated and to be considered. No charges have been preferred against you at this meeting. This is designated under the constitution the conciliatory hearing, in which we discuss the situation as it exists in this locality and in reference to the peculiar factors involved in this locality which might or might not render a slightly different interpretation of the code of ethics other than the very formal and limited wording of that code. It is a huge problem to approach in this way.

Dr. Butler: Yes, such a big problem that as I look it all over I can say this to any man in the world, that I don't think there is a man ever followed the practice of
8588 medicine any more honestly or cleaner than I have, and I can look anybody in the world in the face and tell them that. It is going back to the bible, but it seems to me that he who is free from sin should cast the

first stone. The more you go into this thing and look at it and review it from all angles, the more it reminds me of the little story of the road sparrow who sat on a post on the roadside and he waited for horses, and he waited and waited, and kept getting hungrier and hungrier and hungrier, and he waited and waited, and he kept getting hungrier, and no horses came by. He was nearly starved, and a team of horses came by, and he flitted along from post to post, but nothing happened, and the team turned off. He waited another day or two, and just as he was about starved to death a team came by, and something happened, and he sat down and he ate and he ate and he ate and he ate, and finally he managed to get back up on the telephone wire and he started singing and singing, and suddenly he dropped dead, and the moral of the story is, don't sing when you are full of horseshit.

Now there is so much in this whole damn thing that it is awfully hard to unravel; I am telling you gentlemen it is. There are two sides to the question. It seems to me that the Society has got to move with great discretion for its own benefit, and I am very frank in saying that I can see both sides to that question; I looked it over very carefully and I can say this about the hospital associations

8589 that I have worked for down there for many years, that they have rendered very good service to their patients, and they give people more for their money than they could get from a private physician. It is a pleasure to work there, because if a man needs anything done you can go ahead and have it done and you don't have to be feeling that you are doing a lot of unnecessary work and making the patient pay for it. If there is any possibility that he needs it he can have it, and for that reason I do not feel that I am practicing unethical medicine when I am rendering them a service.

As far as the layman making money out of the practice, he goes out and he takes a body of men and he says, "You pay me so much and I gamble on it." If he happens to strike an epidemic he loses money; if he doesn't he makes money. During the flu epidemic the National Hospital Association went in debt over seventy thousand dollars taking care of those people, and as I say, I still maintain that they run a good, decent class of practice, but I do not maintain or argue that it is to the best interests of the medical society or the practice of medicine as a whole to have such organizations existing; not from the method but from the way the laws are drawn up

which allow them to operate. The law does not provide a large enough bond. You or I or any of us might go out here and get a lot of contracts, get the money in, an epidemic comes along, and we stick the money in our pocket and walk off, and the patients would be out that much.

That part of it should be regulated by law. It is
8590 a practice that has its dangers; it is a practice that possibly should be more closely regulated, but I do not feel that it is any more unethical to work for the hospital association than for the State Accident Commission. I can't see how in the line of solicitation you can make any demarcation between them. Didn't Early during his term go down, pick out certain individuals and say, "You can have a contract to do all this work at a certain fixed price"? Isn't it the State Accident Commission that goes out and solicits these men and signs them up and turns them over to the hospital associations? By law they can do it and they are doing it every day.

Dr. Adams: The state in its infinite wisdom has seen fit to endow those men and that commission with a certain degree of authority which permits considerable latitude on their part, some of which may not be entirely in conformation with so called private medical ethics, a matter over which we do not have any authority to exercise any control.

Dr. Butler: I am not an attorney, but it seems to me that either the State Accident Commission law is unconstitutional or the medical society is taking a great deal of authority on itself to say that a man is unethical when he is practicing under the law that is laid down by his own state.

Dr. Payne: That doesn't follow, Frank, here because all this board can say is whether or not an individual is practicing according to the rules of the society of which he is a member. That point is missed a great deal.
8591 We are not arguing about the quality of the work necessarily. That comes in; it is open to argument possibly, but the point that we have to decide here is whether those practices are consistent with the laws of the individual society and the national medical association. We can't go beyond that.

Dr. Butler: You can't go beyond it, Roy, but you can lay yourself open to damages very easily if you impair a man's income by such an action when he is practicing under the laws of the state.

Dr. Payne: Well, we are trying to walk as carefully as possible.

Dr. Butler: That was farthest away from my intention or my thought, but I am still saying that in a court of equity I do not believe in my case that you have a leg to stand on. I have consulted no attorney about it, or anything else, but just from all laws of fairness and what is right and what is wrong I don't see by your action one way or the other if you want to force this issue but what you are going to injure me — my income — either way I jump.

Dr. Payne: On the other hand many of us are injuring our incomes in the same way.

Dr. Butler: That may be true.

Dr. Payne: We are undergoing sacrifices that you haven't undergone.

8592 Dr. Butler: You may have sacrificed it and you may never have had a chance to sacrifice it; there are two possibilities.

Dr. Adams: Yes, both of which occur frequently.

Dr. Butler: Yes, both of which occur.

Dr. Adams: If course you are not unfamiliar at all with the fact that this general subject matter has been before the Society for a number of years.

Dr. Butler: Yes, and the other side of my case is that if I give up this work there is no doubt in the world but what a layman will step in there and get it. If you would rather have that—

Dr. Adams: Neither of these bodies have the authority conferred upon them to make final decision in any of the cases they are called upon. The Council of the Society of course is the body that reviews what may occur at these hearings and is the body which passes the final judgment. The Society as a whole has assembled and debated somewhat hotly in spots anyway and passed the resolution which commanded their respective committees to proceed forthwith. As to what rate of speed that might be is compatible with anyone of the committee taking proper time to eat and sleep and perhaps do a little practice in between times. It is a matter which brings up considerable difference of opinion amongst the members as to how fast they are proceeding. I entirely agree with you that it is a very complex situation. We have felt it necessary to adhere to the written code of ethics and the written constitu-

8593 tion and by-laws therein outlined.

Dr. Butler: Well, where are you going to stop?

Dr. Adams: That is something for the Society as a whole to decide.

Dr. Butler: I think you have got a bull by the tail and can't see where you are going to land.

Dr. Adams: I don't recall having heard your voice in open meeting on this subject.

Dr. Butler: I have not been in open meeting for the reason that I was rather active in the Society until two or three years ago when this hospital association question came up and my name was brought up for state secretary and I was informed that the Multnomah delegation frowned upon my name because I was doing work for a hospital association. Since then I have felt that I didn't want to force my presence upon the Society.

Dr. Adams: I feel you were relatively rather retiring, Doctor.

Chairman Sears: Do you feel that the Society should abandon all codes of ethics and all relationships and any control over relationships of its members, and allow them to carry on any type of practice that they want to conduct, just speaking from the general principle standpoint?

Dr. Butler: Why, no. I say this, that the Society should be very rigid in its enforcement of medical ethics as laid down by the oath of Hippocrates in the treatment
8594 of patients and in the treatment of people from a humanitarian standpoint. I think it can never be too rigid and in my opinion it has always been too lax and is still too lax. You have members in your society now we all know that are doing practices which should never be done and are profiting by the ignorance of the public and taking advantage of them and collecting fees and doing things that they shouldn't do. I claim that is a much bigger problem for the medical society to iron out than some little, petty economic question of just how many dollars and cents they should get. That is my idea of control of the practice of medicine. I do say this for Portland and this community; I think as a whole compared with other cities that we do have a bunch of men that are much above the average. I don't think we have half of the rotten practice that they have in Chicago or New York or San Francisco or Los Angeles, I really think we don't, but we have a lot of it.

Chairman Sears: Personally I share with you your feelings about the necessity of some control over the individual practices of men, and recognize that as even a much more difficult thing because you are dealing in the question of the

range of opinion of individual diagnosis and the best method of treatment, in which, of course, there is bound of necessity to be a great deal of latitude left to the individual.

Dr. Butler: It is very hard to know.

8577 Chairman Sears: There are, however, flagrant abuses which should be left to a committee of individuals to decide certain things ----

Dr. Butler: Don't you think, Doctor, that whenever a man gets so flagrant in his practice of medicine that he is expelled from a hospital, denied the right of a Class A hospital, that he should be investigated by the Society to see whether or not he should be expelled? Does the Society ever do such things? There are men who have been kicked out of all these hospitals because they were doing unnecessary surgery, collecting unnecessary fees, and all that, that are still members of your Society.

Chairman Sears: Quite right, but because the Society has been careless in the past, do you think that we should always be careless?

Dr. Butler: No.

Chairman Sears: The time comes when the move has to be made; isn't that true?

Dr. Butler: Sure, but why not pick on the men who are undesirable from the humanitarian standpoint first, rather than the men who are slightly undesirable because they are doing a little work which by a far-fetched line of imagination may be unethical?

Chairman Sears: They have been. For your information, the earliest cases that this Board of Censors has had to deal with were just that type of cases. Then while those things were going on there was a certain mandate

8596 regarding some of these other things that had to be proceeded with during this time. We have during this time been engaged in that kind of work.

Dr. Butler: That is very commendable work.

Chairman Sears: But, you see, with the limited amount of time at a man's disposal and with the number of cases before us it has been a tremendously difficult thing. Each one feels that we ought to pick on someone else.

Dr. Butler: I am not feeling any idea of persecution or prosecution or anything else. As I say, it is the farthest thing from my mind to want to have any trouble or disagreement with the medical society and I think all the radiologists feel the same way about it, and I think that whenever the medical society meets us halfway, as we consider, that you will find us very responsive.

Chairman Sears: That is exactly the purpose of this. Your statements are respected and requested. There are two aspects, of course, to the practice of medicine. One has to do with the relationship with doctor to patient and the other has to do with doctor to doctor, and every time we have gotten into the problems of relationships of doctor to patient it has brought up immediately the question of relationship of doctor to doctor. They are fortunately, or unfortunately, interwoven, and the profession of course as a whole in the United States has united in the
8597 American Medical Association and for a period of years a great many better minds of the profession at large have been engaged in trying to lay down a code of ethics. Do you feel that that code that the American Medical Association has developed, if carried out with a reasonable amount of implicity, would better the practice of medicine both from the standpoint of physician to physician and physician to patient? They are both laid down in that code.

Dr. Butler: No, Doctor, I do not. I think the national medical association has tried to force down people an old, antiquated code of ethics that the general public are fast becoming fed up on and are in fact revolting against at this day and age, and if they don't make a complete flop in their stand they are going to have government medicine and they are going to have state medicine. I think that the medical associations throughout the country should work for some insurance plan to cover the low wage earner and the industrial man, and if they don't get busy on insurance protection for those people they are going to have state medicine, and it seems to me that every act of the national medical association in turning down the government representatives to try to work out something with them, in putting thumbs down on the whole thing, means that they are just aiming for a big fall which will be to their definite disadvantage.

Chairman Sears: Now in that connection you are aware of the fact that the American Medical Association
8598 has told the government they would be very glad to cooperate with it?

Dr. Butler: Yes, and then when the government tried to cooperate they passed some big, long resolutions about this and that and the other thing ----

Chairman Sears: Are you aware of any effort on the part of the government to cooperate with them?

Dr. Butler: I have been so informed, yes. I am not officially informed, but I am so informed.

Chairman Sears: We have been officially and unofficially informed that the government has made no attempt whatsoever to cooperate.

Dr. Butler: I have no definite knowledge of that, but I was told by men who were at the convention that the government did have representatives down there and tried to work out some plan. Now that is all I know. There was never anything published in the papers and I have never been officially informed, and I may be altogether wrong.

Chairman Sears: The next question has to do with the question of industrial medicine and industrial contracts. Of course you know the American Medical Association has not offered any objection to that, nor do they oppose a hospital association provided it gives men in the community a fair chance to belong to such an association, but immediately when the profession attempts to work out such a thing individual private organizations constantly
8599 attempting to thwart it.

Dr. Butler: Certainly.

Chairman Sears: How are you going to get the thing that you speak of if the profession can't go ahead and develop its organizations?

Dr. Butler: I am in sympathy with professional organizations, there is no argument in my mind about that. In this community these commercial organizations have existed for thirty years or more. They are firmly established, and in spite of the fact that the medical association may frown on them, may expel their members, there is going to be plenty of men whom they can get to do their work. They have not injured them in any way, that is the trouble with it, and the expulsion of their members simply puts them in a position that they can do any unethical kind of practice they want and we will have nothing to say about it; whereas when those members were members of the medical society we had a certain check on them that could hold them down in control fairly ethical practice. Now if I quit down there, as I say, a layman or some other doctor will take my job — there is no argument about that — and go right on with it and it won't hurt him in any way, shape, or form. Other doctors have appeared before the Board and have either been expelled or resigned. There is not one man yet who has quit the association and you have got a bunch of doctors outside of the Society, as I told you the

other day. When Charlie Bechtold gets those doc-
8600 tors tied up so they have nothing to do but go with him then he can do as he absolutely pleases and force those doctors to do as he pleases, and you have made the matter a damn sight worse than you have improved it, as I see it. I may be all wet; your theory may be all right, but practice is going to work it out the other way.

Chairman Sears: Have you changed the moral fibre of the man in any way? If he is a fair shooter in he will be a shooter out.

Dr. Butler: I don't think a man is a crook because he works for the hospital association. I think most of those boys are practicing medicine in a clean way and I don't think there are any crooks among them.

Chairman Sears: No, I think you misunderstood me. I say, whether a man is in or out of the Society — supposing he resigns or were expelled, why would he be any different whether he were in or out of the Society?

Dr. Butler: I will tell you the reason, Doctor; the reason is this, that when he is in the Society he has a private practice, possibly, and he has his own interest to look out for and he feels an interest in the practice of medicine. You expel him from the Society and he naturally takes a more bitter turn against the rest of the doctors and you will gradually get a bunch of men down there who have no private practice and they have to stay with the hospital association to make their living, and they are going
8601 to stay with them, and they will go ahead and practice medicine all right, but Charlie Bechtold will have absolute control of them. He can tell them what to do and what not to do. At the present time he can't, but you keep this thing going and that is just where it will end. He will have absolute control. He will tell them, "You do this and you do that", and they will take it and like it because they won't be able to make a living any other way.

Chairman Sears: Why won't they be able to make a living the same as anybody else?

Dr. Butler: Well, because the class of men that he will gradually collect will be men who have to take a salary instead of private practice. That is the reason.

Dr. Payne: Will that entrench your hospital association strong in the hearts of the people and the governing bodies or will it injure it?

Dr. Butler: It may. Listen, Roy, there is a point right here; they have for years wanted to write individual contracts, and why haven't they done it? Because years ago

when this question came up the medical society said, "You can't do that. We are going to expel you if you write individual contracts," and for that reason he has never done it, but any time that he gets control of those doctors so they have to take it whether they like it or not
8602 he will go out and write individual contracts. There is nothing to prevent him from standing at the door of your office and solicit every patient that comes in the door to go down and get cheap service.

Dr. Payne: Will he look over the record of financial gain from individual contracts before he starts it?

Dr. Butler: He knows the records of all of it; don't fool yourself. He knows the game from A to Z. He knows much more about it than any of us do. He is not going to write contracts and lose money on them.

Dr. Payne: He will be the Columbus of that outfit then, won't he?

Dr. Butler: Oh, yes.

Chairman Sears: Would you be willing to appear before this committee some other time and discuss this further?

Dr. Butler: Certainly. Any time that you desire.

Chairman Sears: Provided we give you sufficient notice?

Dr. Butler: Yes, surely.

Dr. Mount: I haven't anything further to suggest. I think we are way behind the schedule, and if there is anybody out here that we are going to talk to we shouldn't hold them longer. I would like to have Dr. Butler come again and give us an idea of the solution that he can propose, because I think he has thought about it as much as anybody in the Society. I think in spite of what he has said this evening that he is not entirely in favor of
8603 contract practice as exemplified by the National Hospital Association, and I think he has some ideas that he hasn't given us and I would be glad to hear them.

Chairman Sears: That is what I had in mind about having him at a subsequent time.

Dr. Butler: All right, thank you.

8604 In re: Dr. Lyle B. Kingery.

Chairman Sears: You understand that these meetings are for the purpose of discussion with men in which, as I said the other night, these names at this particular time and some of the other times have been more or less taken at random. The Society has issued certain mandates,

and everybody is cussing us for not moving on and getting started with just as wide a group of men as possible, and so it wasn't a question of singling out any particular individuals. We have quite a list and a lot more of them, and it is just a question of the various statements and rumors that are passed around that come to the attention of the so called Grievance Committee. As you understand, the Board of Censors is not an investigating body at all and they listen by virtue of their office to the various statements that are made and take the statements that are presented to them that this man or that man is doing this, or that, or the other. The purpose of this type of meeting is simply to present whatever is generally known. Dr. Adams is chairman of this Grievance Committee, and I will ask him to state what the purpose of bringing Dr. Kingery here tonight is.

Dr. Adams: Briefly, for quite some time there have been numerous complaints made to the various members of the committee that you treat patients for the National Hospital Association. We are taking the complaints in the order of their priority of presentation or reasonable substantiation; then it becomes our duty to present the matter to the
8605 Board of Censors. This hearing is a conciliation hearing for the purpose of informally discussing your connections with that practice, whether you are or only under certain circumstances, and so forth, and so I might ask you, do you render service to any subscribers of the National Hospital Association?

Dr. Kingery: By that you mean they send me patients?

Dr. Adams: Yes.

Dr. Kingery: Yes.

Dr. Adams: And they pay the bill?

Dr. Kingery: I assume they do.

Dr. Adams: The Society, you are aware, passed a resolution against such action and directing that the respective committees proceed forthwith to bring the matter before the Board of Censors, so we so do in this particular case of yours. I might say there are a great many others against whom we have complaints remaining to be investigated. The basis of the complaint is the code of ethics of the American Medical Association, which frowns upon solicitation of patients, either directly or indirectly. It is felt that you have indirectly obtained patients by solicitation inasmuch as the National Hospital Association solicits patients and then sends them to you. You by reason of your professional efforts are enabling lay stock-

holders in the National Hospital Association to profit by your efforts, and the manner in which the National Hospital Association conducts its business is such that
8606 it prevents a reasonably free choice of physicians in the community, in that they largely designate a limited number of doctors to serve their subscribers.

Dr. Kingery: Do they do that? I didn't know that. You mean they have to come to me?

Dr. Adams: They have just a limited list on their panel of physicians, as a rule.

Dr. Kingery: You know they don't have to come to me.

Dr. Adams: Oh, you mean there are other dermatologists?

Dr. Kingery: I assume so. I have understood a vague rumor to that effect.

Dr. Adams: We have not had time to adequately investigate, and inasmuch as we had a few more complaints against you, you were called first. I am unable to verify your statement at the present time.

Dr. Kingery: Well, what do you want me to say, Charlie? Do you want me to tell what goes on?

Chairman Sears: That is it, exactly. This is informal.

Dr. Kingery: Well, frankly, I don't know how long I have been seeing their patients. It is a long time, and I suppose it is unnecessary for me to say that I have never had a written agreement as to price, method of care, or what I should do. I have never told them I would charge so much or not charge so much. There are certain routine cases that anybody has, I mean types of work, and the charge is — well, I would say in our office not the
8607 maximum and not the minimum. What does the State Accident Commission charge, first and then after calls, I mean for day to day run of the mine?

Mr. Foley: Three dollars for initial business and $1.50 for subsequent business.

Dr. Kingery: I think I never charged them less than three, two, and two. There might be this situation in which that is varied and which is a general practice with me; you may have vaguely heard that some types of eczema are difficult to cure, Dr. Sears, and as an after-treatment I suppose I might look at them without any charge. There is no set charge for radium. When I have been sent such a case I have said, "This will be twenty-five, and this will be fifty." Sometimes they say, "Go ahead", and sometimes they do not. Usually they do.

Chairman Sears: Is that by the minute or the day or for the treatment?

Dr. Kingery: I wish to God it were for the minute. There is no set charge for X-ray treatment. I call them up and tell them how much it will be. In other words I have had a fairly clear conscience about the whole thing. I have consciously not treated those cases any differently than I have cases that you might send me or somebody else might send me. That is that. I don't know, Dick, how accurate your information on all these complaints may or may not be, and very frankly I had no idea how much work I was doing for them. When I received this
8608 notice and after I went up and listened to you and Frank the other night I had the girl go over our books for the first nine months of this year, January 1st to September 30th — anyway, the first nine months, and I was a little surprised, to be quite frank, to find that it is just a shade, some hundreths, over two per cent of our work. Now I don't know what else I have to say. I would be glad to answer questions. I didn't feel like I was doing so darn much of it after I got to thinking about it. I never though of it before.

Dr. Adams: Of course the basis of the complaint is that in cooperating with them you are in effect enabling them to prevent a free choice of physicians in the community. Those patients, or subscribers, as they are sometimes termed, have been solicited by them and obtained by solicitation.

Dr. Kingery: Yes, I know.

Dr. Adams: It deprives another man who does not see fit or is not permitted to associate himself with them from a real or sporting chance of establishing himself in the practice. It permits a lay controlled organization to gain a greater foothold and a greater and greater power in the community. It is one of those abstract things on which these complaints are based.

Dr. Kingery: I had rather felt subconsciously that I hadn't made it particularly favorable for them to send cases to me, and as a matter of fact I think the comparative amount of work I have done rather shows that. I
8609 assume I could be doing a lot more if I had. I have certainly never solicited them.

Dr. Adams: No, but indirectly somebody has solicited for you, in that an agent of the National Hospital Association has gotten the business and then sent it to you.

Dr. Kingery: I have, I think, if they haven't been thrown

away, letters on file in my office to every one of those organizations that have ever been here, partially in response to letters from them and partly voluntary, that my name was never to be used in either sales talk or in printed form or in any other way. If they haven't been thrown away I have those now.

Dr. Adams: Well, we have lists of physicians that have been presented—

Dr. Kingery: In printed form?

Dr. Adams: Typewritten.

Dr. Kingery: I don't like that. They have been instructed not to.

Dr. Adams: —in various plants, and they say, "These are the men"—

Dr. Kingery: In sales talk, yes. That of course was without my permission or knowledge.

Dr. Adams: Whether that be given out in a sales talk prior to securing of the contract or whether it be a mere after thought on their part I wouldn't be free to say. However, it is in their possession and the sub-
8610 scribers feel that these physicians will treat them.

Dr. Kingery: If they have used my name in that way they have broken faith with me definitely. I don't know; I might be able to rake up some of those letters. The have been written.

Dr. Adams: The Society has frowned on that type of practice.

Dr. Kingery: I have never countenanced that.

Dr. Adams: And they have directed the Board of Censors to proceed forthwith, and the Board of Censors felt that they should appoint a grievance committee, because most of the men who have grievances and who want to make charges are very bashful about coming to the front personally, so they created this intermediary body, a grievance committee who should pass upon complaints.

Dr. Kingery: Is there anything that you have heard or of which they have complained of me that I haven't covered? Would you like to ask me any questions?

Dr. Adams: No, I think the complaint has been that you have served their subscribers, and in so doing you have violated these various principles of medical ethics. That is the only complaint; not that you have treated any patients improperly or anything of that kind. Our members of the Society feel that you are infringing upon their rights and the equality of the situation.

8611 Dr. Kingery: Well, is there anything else that I ought to say to verify this, or do you want to know anything else?

Dr. Adams: Well, as we interpret it you should come before this body and admit that you have transgressed in the past in certain respects but that you, having had this brought to your attention, will not do so in the future.

Dr. Kingery: Well, I want a little time to think about this, and this is my reaction; if you will not pick on three or six when there are sixty or a hundred doing the same way, the same thing every day and every month as I — now wait a minute; pardon me. When that extends to every county society, which I take it is a unit of the state society; when that extends to and includes office holders in the state society I will be No. 1 to put my name down, and I don't know but what I would without that, but my objection is to picking on a few, and that is more a matter of principle than anything else.

Dr. Adams: That hasn't been our intent, Doctor. It is an utter impossibility to investigate three or four or five hundred complaints all at the same time and calling a meeting when really a man should be given an individual hearing. Perhaps you might criticize us because we haven't investigated all complaints.

Dr. Kingery: This isn't an easy job for you, I know that, or a pleasant one or a small one, but as I say, it is largely a matter of principle. I would presumably live without the National, you see, but when it is so flagrant and
8612 every month or every year, let us say, fifty or sixty or more of this Society that you represent are doing this, and the same thing in these other county societies — it includes officers of the State Society — then why should I, or why should anybody, John Doe or John Jones, be treated in any different manner than those who are active in the same way?

Dr. Adams: Our jurisdiction of course extends only to this county.

Dr. Kingery: But the same rules of ethics apply, don't they?

Dr. Adams: Yes, and the county societies of other counties should proceed forthwith with their members.

Dr. Kingery: There is no question, I think, about how I stand on anything that is better for the practice of medicine in Oregon. My fifteen years here will show that, and as I say, the National Hospital in itself doesn't mean anything to me personally and it doesn't mean very

much financially, but personal persecution in a Scotchman doesn't set very well.

Chairman Sears: Have you presented your charges?

Dr. Adams: I have, Doctor. I yield the floor to you.

Chairman Sears: Then I should like to expedite matters May I say in answer to that question, Doctor, that you have discussed with Dr. Adams, it is not possible at the same hour and same minute to take up this matter with four hundred men.

8613 Dr. Kingery: I can by a stretch of the imagination see that.

Chairman Sears: All right, you should have seen that before you asked that question, because the Society of course is limited in its jurisdiction to Multnomah County. For your information I will say as far as there has been an overlapping of office holding there has been a sincere effort made to try to extend the same thing to all the societies in the state, but remember, they have their own autonomy.

Dr. Kingery: On the other hand aren't the physicians of a given county society subject to the Board of Censors of the state society?

Chairman Sears: They are, but not until an individual has been expelled from a society has he the right to appeal to the state society, and I will say for your information that no individual officer can be a private detective and engage himself solely in detective work. We have had in the county and state societies many of those statements brought up, the fact that So-and-So is doing so-and-so. Now if they have information then they should present that information. That is the place to do it, to present it to the Board of Censors, which they don't. Each one generalizes by saying, "There is a whole crowd of them doing this." Now we take this matter up about John Jones. He says that Bill Brown over here is doing the same thing, and Bill Brown says Tom Jones over here is doing that, and so we listen to that again and again

8614 and again. Now the Board of Censors here has given up an enormous amount of time taking just the flagrant cases, for example matters that didn't pertain to hospital associations or contracts at all, it had to do with individual conduct. You take a conciliatory meeting of this kind; we have had individuals brought up here who haven't been acted on at all. It will have to be done at subsequent meetings. It doesn't mean just one conciliatory meeting, because a conciliatory meeting means the full expression of that individual in the aim that this matter

may be extended to the whole society without fear or favor, hence there is no picking on any one person or group of people at all, but they say, "Are you taking specialists or general practitioners, or this group of specialists?" You can see how impossible it is to just pick them as they come. There is no question of singling out individuals at all in any instance except as individuals were officers of a hospital association participating with lay individuals.

Dr. Kingery: Yes, that is a different thing.

Chairman Sears: And in which case those individuals of necessity had to be taken first, but when individuals are acting as minor members or consultants then those things extended into a larger group and had to be taken in as is feasible and possible. Incidentally, it is more or less implied that the Society wants the assistance of the Board of Censors to try to develop knowledge and statements and feelings from individuals that may be put together to make a composite effect as to what the Society as a whole wants, and incidentally we have tried to get an expression from individuals with whom we have had sessions here that we thought would be helpful in solving the problem. Some of these are personal matters and we don't assume that the individual wants his name bandied about that he was brought up before the Board of Censors at all. We personally have kept our mouths shut in the main about such things, and hence it is true that the Society at large doesn't know who has and who hasn't been brought up. Many assume that everybody has been brought up and we want to kick everybody out of the Society. Other groups say, "You are not doing anything", and we are being kicked and cursed all around. I want to ask you this question: don't you believe that a society in order to exist has to have some sort of a code of ethics for its membership? Can we admit anybody and let him proceed in any way whatsoever? Is this going to be purely a society where an individual goes merely to listen to medical papers, and a society that takes in everybody irrespective of the nature of his work or his ethics and gives him a chance to belong and compete on equal terms with everybody else? Do you feel that way?

8615

Dr. Kingery: I will answer it this way, Charlie; I think some part of this society or the state society ought to have very much more power than any committee now has to deal with infringements.

8616

Chairman Sears: We have many statements to the contrary.

Dr. Kingery: I think they ought to have more.

Chairman Sears: Are you in favor of the continued attempt to investigate the infractions of the code of ethics of the American Medical Association in the aim that a large number of individuals be brought before the Board of Censors, just as many as possible at one time, to get the statements of the individuals as to what they are doing so that the Society may have developed a perspective of things and to determine whether the individuals are willing to have a code of ethics and operate under such a code, and to then have that operate without fear or favor? You see, our Board of Censors was virtually given a mandate and told to get to work. We have been brought together and told that we were dilatory, told we were not proceeding, and then when we picked out this and that and the other prominent man they say, "You are picking on me." Either there must be no code of ethics or there must be a code, and we must take it up with each individual in turn as fast as possible, not in a hard boiled manner to take one at a time and kick him out of the Society. This Board of Censors is not interested in putting any man out of the Society; we feel that there should be developed a consensus of opinion that the code must be enforced. Then there must be wholehearted cooperation on the part of everybody not to quibble.

Dr. Kingery: Well, you inferred something with which I agree; that is, either let's do it or don't do it.

8617 I mean, for instance let's have consultants to hospital associations, or else have none.

Chairman Sears: That brings up the other question that I had on my tongue a moment ago to ask you. Do you see a connection, or we will say an indirect violation of the code, whereby a group of people go out and solicit for you? I happen to know, for example, that an officer of the National Hospital Association has said, "We will give you the services of the best dermatologist," and then tell the individual that he has to go to your office. They go out and solicit the man indirectly. Don't you participate in the profits of solicitation under the circumstances?

Dr. Kingery: In the first place there must be two or three best ones; you see what I mean?

Chairman Sears: But the man is then told to go to you.

Dr. Kingery: Well, I can't be more than the one best one, but there are others to whom they are sent, which is quite all right with me. The second thing is, as I said

before, if I still have the letters — and if I haven't you will have to take my word — they have been specifically told in writing that I objected to the use of my name in any way, printed, spoken, or in any other manner, and if that has been done they have simply not kept faith with me. The people that I have treated I have treated conscientiously, no differently than I have ever treated
8618 any other patient, so my conscious doesn't hurt me at all. If it is for the good of the Society that I don't do that particular little bit of work there is no question about my decision. Does that answer your question?

Chairman Sears: Yes, it does, precisely.

Dr. Kingery: But I want it either done or not done, which seems to me to be a perfectly reasonable request.

Dr. Payne: If there are sixty or seventy men out of somewhere around 380, or whatever it is in the county ----

Dr. Kingery: What would be the percentage, fifteen per cent?

Dr. Payne: Something like fifteen per cent doing that work —

Dr. Kingery: Pardon me, may I ask one more thing? My statement, "Let's do it to everybody" isn't based on financial reasons whatsoever; it is a matter of principle. Pardon me, Roy.

Dr. Payne: Well, the point I was thinking of, if it is definitely proven and called to your attention that this work is contrary to the best interests of the whole group and contrary to the ethics of the society with which they are affiliated would it be your desire to associate with the three hundred or with the sixty? That to me is the crucial point.

Dr. Kingery: Oh, there is no question about that, Roy.

Chairman Sears: Let me ask you this question? In the matter should come to a discussion before the Board of Censors or the Council of the State Society and they after discussing this same matter with the major
8619 share of the Society and the officers of the Society, should say that association with a given hospital association is contrary to the best interests of the Society will you give it up? We are asking others to do the same. Would you care to give up the work under the circumstances?

Dr. Kingery: Certainly, if you ask all the consultants to give it up.

Chairman Sears: But suppose some consultants should not give it up, would that change you?

Dr. Kingery: No, of course not.

Dr. Mount: I have nothing to say.

Dr. Kingery: This is your last chance, Frank.

Chairman Sears: Possibly we may take a little of your time again when it isn't going to deprive you of some of your other legitimate interests. If we want to discuss this with you further would you be willing to do it?

Dr. Kingery: Gladly.

Chairman Sears: Has the grievance committee anything further, or are you through?

Dr. Adams: We have another case.

Chairman Sears: No, I am speaking of Dr. Kingery tonight.

Dr. Adams: No, I think we have presented all the charges.

Chairman Sears: If you have anything further to say we will be glad to listen to you. We certainly appreciate your coming here, and your frankness, and your
8620 spirit of cooperation.

Dr. Kingery: There is no question about it.

Chairman Sears: We feel we have, have we not, agreed on this, that there is no discrimination in asking you to come here tonight, nor are we in any way attempting to pick on you or make you an example.

Dr. Kingery: All right, thank you.

8621 In re: Dr. Charles T. Chamberlain.

Chairman Sears: I suppose you are aware — I don't know whether you are or not — of the purpose of this meeting.

Dr. Chamberlain: Yes, I think I am.

Chairman Sears: In its broader aspects I want to make it clear that you are not singled out any more than any other one or any number of others whom we will ask to come up under the same circumstances; that it isn't a question of coming up for any final conclusion at all; it is a question of a method of procedure in which we have to proceed as rapidly as possible in the cases of a large number of individuals to determine the status of their practice in relationship to the code of ethics and get an expression of feeling, and it is purely in an amicable, conciliatory manner. Of necessity the Board of Censors has

to take cognizance of various rumors and statements cast about and any definite statements or even accusations of some individuals. There is, as you may or may not know, a grievance committee which listens to these various things. The Board of Censors is not an evidence gathering body; they are a quasi-judicial body which listens to the various statements that are brought to it, whether they are accusations or otherwise. We have a grievance committee whose purpose is to gather such statements together and discuss them in this preliminary manner. Dr. Adams is chairman of this committee and we are going to ask Dr. Adams to tell us what statements he has to make regarding any evidence, hearsay or otherwise, that
8622 he has.

Dr. Adams: Dr. Chamberlain, meet the other members of the committee, Dr. Hollenbeck and Dr. Lamb.

Dr. Chamberlain: I think I have met them before.

Dr. Adams: We have received a great number of complaints directed against your activities in connection with treating subscribers of the Industrial Hospital Association, and the basis upon which these complaints is made is that it is in violation of the code of ethics of the American Medical Society, in that you are directly or indirectly treating patients that have been obtained through a process of solicitation; that the manner of conducting such a practice is such as to prevent a free choice of physicians in the community, and that your professional attainments are being disposed of in such a manner as to permit a direct profit to accrue to a lay participator in such an association. We have looked into the matter of these complaints, and it would appear that there be substance to them and that you do treat subscribers or patients of the Industrial Health Association at times. Is that true?

Dr. Chamberlain: Yes.

Dr. Adams: And that is the sole basis of the complaint brought to the attention of the Board of Censors by the grievance committee.

Dr. Chamberlain: I think my answer to the questionnaire which I received a few months ago made no attempt to deny that fact.

8623 Dr. Adams: We didn't presume to violate the confidence of any questionnaire.

Dr. Chamberlain: No, that is perfectly all right. I have never been secret about it.

Dr. Adams: No, I know you haven't.

Dr. Chamberlain: And I am perfectly willing to admit now that that accusation is in every sense true.

Dr. Adams: You are of course aware of the action of the general Society in passing the resolution to the effect that its proper bodies, the Board of Censors and the grievance committee should proceed forthwith to deal with any violation of the code of ethics among the doctors in this county. That is the limit of our jurisdiction.

Dr. Chamberlain: Yes.

Dr. Adams: So we have struggled along and labored hard and faithfully as directed by the Council that appointed us, and your case is just one of many complaints that we have investigated and must yet investigate as soon as time and opportunity afford. In no sense has there been an attempt to persecute any man or any individual or follow the complaints exclusively against anyone in the organization. We have endeavored to treat them on the basis of the number and the gravity of the complaints, and at least distribute to a certain degree the complaints amongst the many members.

8624 Dr. Chamberlain: May I ask a question?

Dr. Adams: Certainly.

Dr. Chamberlain: Is it the intention of this society to bring similar charges against every man in the state who has been guilty—if I may call it that—of doing this same sort of work?

Dr. Adams: Well, I think you are in receipt of all the official pronouncements from the Society, as well as I. I have no inner knowledge whatsoever. It would appear, I think, from reading the various resolutions and statements of principle, and so forth, that the Society feels that such practices should be discontinued by the membership and have urged the component bodies to proceed to stop such practices amongst its membership. We act only for Multnomah County, and as we see our duty we must of necessity handle every complaint that is made on its merits without any partiality or discrimination whatsoever. That becomes a very unpleasant duty.

Dr. Chamberlain: I understand that.

Dr. Adams: And one's loyalty to the Society becomes sorely tried at times.

Dr. Chamberlain: I came here tonight to get some information, not to make any defense, because I have none to make. If there is any defense to be made that will be made later, but I would like to know a few things that I know nothing about now. Whose pronouncement is it

that this type of work which is being done by as
8625 many as you know it is being done by, not by just a few, but by many—that this type of work is unethical? Does that come from the by-laws, or whatever you call it, of the American Medical Association?

Dr. Adams: Well, we utilize the code of ethics of the American Medical Association as a basis for judging the merits of each complaint, whether or not it violates or it would appear that the individual is violating one or more of the statements in the code of ethics, and I made mention of three of those; solicitation, free choice of physicians, and lay participation. The judgment as to whether any individual's particular action in the association in any group is unethical or not is a matter for the judges to decide, the Board of Censors in this instance, who then make a recommendation to the Council of the local society, and the Council is the final authority in deciding whether or not the charges are substantiated and whether or not the charges do constitute a violation of that code of ethics.

Dr. Chamberlain: And what is the penalty imposed on me or any man who persists in that practice?

Dr. Adams: The penalty is at the pleasure — or the decision at any rate — of the Council. The Board of Censors is limited to, first of all, two decisions: that the charges are sustained or that they are not sustained, and if they are sustained then they must recommend to the Council one of three things; either censure or suspension for a definite period of time or expulsion. The Council
8626 is not bound to act in accordance with the recommendations of the Board of Censors, by the constitution and by-laws of the Society in so many words. They likewise have discretionary power in deciding on the penalty. I think in the communication to you the paragraph concerning the conciliatory meeting was quoted from the constitution and by-laws Section 7, and this is the conciliatory meeting, in which kindly efforts in the interest of peace, conciliation or reformation, so far as possible or expedient, shall precede the filing of formal charges affecting the character and standing of a member, and it shall be the duty of the Board of Censors to promote this end by making a preliminary examination into the merits of the case, and the accused shall be given opportunity to be heard in his own defense, in all trials and proceedings of this nature. A member who is guilty of a criminal offense or of gross misconduct either as a physician or citizen, or who violates any of the provisions of this constitution

and by-laws, shall be liable to censure, suspension or expulsion. Charges against a member must be in writing and delivered to the secretary, who shall immediately furnish a copy to the accused and to the chairman of the Board of Censors, and we act in strict accordance with the written provisions of this constitution and by-laws.

Dr. Chamberlain: May I take that and read it over?

Dr. Adams: Certainly.

8627 Dr. Mount: I think Dr. Chamberlain's question has been a little more specific than that. I think he asks just how he is connected with this situation, and it seems to me the answer has been that the Industrial Hospital Association, if that is the one with which he is associated, has been determined by the Council to have done advertising for patients, solicitation of patients, and permitting indirect profits to lay individuals through its operations. I think those are the immediate things that are concerned.

Dr. Adams: And interfering with free choice of physicians.

Dr. Mount: And interfering with free choice of physicians.

Dr. Chamberlain: Well, I would like to ask one more question. Suppose I, after having met you gentlemen tonight, would decide that I wanted to give up that work. What would follow that? Would I be still subject to an investigation?

Dr. Adams: That I believe would be covered by the conciliation clause of the constitution. That would be at the discretion of the Board of Censors. I think they would more properly pass on that. Would you answer that question, Dr. Sears?

Chairman Sears: I beg your pardon?

Dr. Adams: Dr. Chamberlain asked if he should choose to give up this association would he then be subjected to further investigation and action by this Board.

Chairman Sears: No. That is the function of the mechanism of conciliation, and that is the way it has been interpreted, that when an individual consciously or

8628 unconsciously has violated the code of ethics and he agrees to discontinue such, it frees him from further — you might say investigation of his past acts, provided they are not gross errors in conduct which have to do with moral turpitude which violates the state laws.

Dr. Adams: Yes, there is a phrase in there, "Insofar as it is expedient."

Dr. Chamberlain: I have never felt that my conduct involved moral turpitude; there isn't any question about that. My conscience is clear. I am equally guilty about that. My conscience is clear. I am equaly guilty with many others. I have an idea that most of your membership at some time has received fees from the hospital associations, so I don't feel particularly worried about that phase of it. I just wanted to know what would happen if I, along with others, felt it wasn't expedient to give up this work.

Chairman Sears: As long as you are directing that question to me in my capacity as Chairman of the Board of Censors I will speak for myself, and my associates can speak for themselves. I would like to ask you a question, if you please, with this preamble, that in the past for various reasons unknown to me, individuals have accepted membership in the Society and presumably have read the principles of medical ethics to which they are supposed to conform. Apparently a large share of them have not, and they have regarded the medical society largely as a scientific organization. Many individuals, when their toes have been stepped on in practice, rather hasten in
8629 to ask the aid of the Society to chasten somebody else. Until that time they don't feel that the medical society is either serving any purpose or its function is to do anything more than to have meetings whereby men listen to papers and discuss them. Well, as a matter of fact they did group together for the purpose of mutual assistance in their matters of application of scientific principles to the care of patients, to learn from their fellows the same things, and exchange opinion on purely medical problems, but they have also extended that further, to an association which has as a part of its function the development of ethical principles and the conduct of the physician to his patients and the relationship of physicians to one another, and they knowingly or unknowingly have assented to the code of ethics which has been built up, and to the extent that they have largely disregarded those things that are written into the code of ethics the various officers have disregarded their functions and duties until affairs have developed to the place where it is necessary for the Society to take stock of itself. In so doing they have elected a succession of officers and then given them a mandate, as it were, to carry out the execution of necessary control over their membership, and it seems that that control is going to have to extend to quite a large number of the membership. This particular Board of Censors were

singled out to do that particular work and they have proceeded and have incidentally, however, tried to in-
8630 terpret the regulations and the code of ethics of the Society and include in that, of course, their usual duties of proceeding regarding the applications for membership, which has never been done before, and proceeding against individuals who are involved in mechanisms which involve moral turpitude, as well as these other matters, and it has involved the Board of Censors in a tremendous piece of work. In picking up the threads, however, here and there of procedure involving the membership in relationship to their conduct as it pertains to the relationships existing between physicians and their general relations to the practice of medicine we have tried to take without favor the evidence as fast as it was presented, and this we have done in your case, not that you are involved any more or any less, necessarily, than a number that have already come before us and those who are to follow thereafter, but it has been impossible to proceed simultaneously, and it is incidentally the purpose of the Board of Censors to develop the opinions of the individuals who come before it, that this matter may be amicably discussed in order to arrive at any conclusions as to the individual's conduct. May I ask you whether you regard some control or code of ethics necessary in the profession?

Dr. Chamberlain: Yes.

Chairman Sears: If we have such a code do you think that it should be lived up to?

Dr. Chamberlain: I think it should be lived up to, but I believe that it should be lived up to by all of us
8631 and not by just a half or a third or whatever the percentage is.

Chairman Sears: Yes. Are you in favor of the application of the code to all?

Dr. Chamberlain: Yes.

Chairman Sears: And are you willing to cooperate to the extent of applying that to all?

Dr. Chamberlain: Yes, sir.

Chairman Sears: If the Council in discussing this matter takes it up with the major share of the Society involved in infractions of the code and you are requested by the Council and the Society to discontinue such work as they feel is inconsistent with the code of ethics will you be willing to do so?

Dr. Chamberlain: Will you repeat that question? I would like to get the full import of it.

Chairman Sears: Will you read it?

(The question was read by the reporter.)

Dr. Chamberlain: I will.

Chairman Sears: Have you any remarks or questions?

Dr. Payne: Simply that point that Dr. Chamberlain has just answered brings in the probability that there will still be certain ones who will prefer to stay by that practice and go out. Suppose they have an eighth of our society who are engaged as he has been in this practice there will probably be a thirty-second of them anyway that will still want to remain and get the fruits of going out.

8632 Would that alter your decision?

Dr. Chamberlain: No.

Dr. Mount: I would like to ask Dr. Chamberlain if he has any suggestions as to how this matter should be handled; if you have any ideas in regard to it.

Dr. Chamberlain: It is too big for me.

Dr. Mount: Would there be any other way of approach to it?

Dr. Chamberlain: I think the thing that makes those of us who have practiced medicine as long as I have done and have done it honestly and conscientiously hesitate to agree to give up this type of work—it doesn't amount to much — is the fact that it is being done by apparently such a great majority of the men in our state, and that we feel that we shouldn't be put on the spot, a few of us, and made the goats for a crusade against this type of work when we know and you know there will be many, many left who will be doing it. We can step on toes all around us and point to men who are doing this work, men in your state organization. You know who they are, men in the neighboring towns. Some of them are going to continue to do the work. Are you going to be able to accomplish what you are setting out to accomplish? Do you think you will be able to do it?

Chairman Sears: As an officer of this society and from my experience in it and as an officer of the state society, while it is not under the jurisdiction of our meeting tonight, sensing the feeling of a large number of men over the state, I believe it can be accomplished, certainly

8633 if we get the cooperation of such men as yourself.

You recognize the difficulty; that is the reason I created the preamble that I did, to show how and to what

extent and possibly why abuses have crept in, and it has been generally agreed and is the mandate of the Society that those abuses should be abated. That in itself would tend to indicate there is a trend in the majority of the Society toward desiring to make the code of ethics applicable and to proceed with its enforcement, but I think you misunderstood or didn't gather what I was intending to convey when I stated this Board of Censors is not making anybody the goat, nor is the Council of the Society making anybody the goat. We have already taken the matter up with a large number of offenders and we have to proceed against a large number. It is not advisable to proceed against a large number at the same time, and we especially wish to respect individuals' feelings. For example, we had a group here of a large number of men at one time, and tried that out. You would be surprised to know how many men have been here and how many are in the process of coming. How can we say that anybody is the goat under the circumstances?

Dr. Chamberlain: I haven't said that.

Chairman Sears: That is the reason I made the statement, because the Society has given us a mandate that we are carrying out and going through the Society just as fast as is consistent with the time, opportunity and the evidence presented.

8634 Dr. Chamberlain: I haven't ever made that statement, but that is the attitude of many men like myself, who have felt that a few of us shouldn't be brought in until all of us have been brought in.

Chairman Sears: Does that answer your question as to why everybody couldn't be tried at the same time?

Dr. Chamberlain: Yes.

Chairman Sears: And that men who are in here at the present time have not been picked because of the seriousness of the offenses of their recalcitrance or anything of that sort?

Dr. Chamberlain: Yes. After this hearing with you I think I see things differently, and if I am not needed any longer I will ask to be excused.

Chairman Sears: Well, may we ask this before you leave: Would you be willing to meet with us again and discuss this with us?

Dr. Chamberlain: I think I will have made up my mind within twenty-four hours, and you will hear from me definitely. If you hear from me to the point that I am will-

ing to give this work up, that lets me out, doesn't it, from any further participation in your meetings?

Chairman Sears: Except as to your willingness and desire to aid us, and that is what we are asking for.

Dr. Chamberlain: All right.

Dr. Mount: Thank you very much, Dr. Chamberlain.

8635 In re: G. W. Millett:

Chairman Sears: Dr. G. W. Millet has been called and is not present. In lieu thereof he has sent the following letter explaining his absence:

November 13, 1937

Dr. Charles E. Sears
Chairman of Board of Censors
Multnomah County Medical Society
Medical Dental Building
Portland, Oregon

Dear Doctor:

In reply to your letter dated November 6, 1937, will state that I have no contracts, no agreements, no arrangements with a group of doctors or have no younger doctors in my employ sending me patients, nor do I solicit any patients through employers, insurance companies, fraternal organizations or any other form of organizations.

So far as the Principles of Medical Ethics of the American Medical Association are concerned I have studied them very thoroughly and I feel that in no way have I violated them.

With reference to appearing before your Board, November 15, at 9:00 P.M., will state that I have another meeting at that time which it is necessary for me to attend, hence, it will be impossible for me to be there.

Fraternally yours,

G. W. Millet

GWM:F

Plaintiff's Exhibit 1921

8636 BEFORE THE BOARD OF CENSORS
of the
MULTNOMAH COUNTY MEDICAL SOCIETY

Hearing In Re Drs. H. R. Shields and Wm. F. Beck,

Portland, Oregon
November 20, 1936

CLOYD RAUCH
Court Reporter Notary Public
201 County Court House - Atwater 5387
Portland, Oregon

8637 BEFORE THE BOARD OF CENSORS
of the
MULTNOMAH COUNTY MEDICAL SOCIETY.

In Re: Drs. H. R. Shields
and William F. Beck

Medical Dental Building,
Portland, Oregon, Friday, November 20, 1936
7:30 o'clock P. M.

BOARD OF CENSORS:

Dr. Chas. E. Sears, Chairman;
Dr. Frank Mount;
Dr. Robert L. Benson;
Dr. John C. Adams, Secretary;
Mr. Clyde C. Foley, Executive Secretary.

GRIEVANCE COMMITTEE:

Dr. Karl H. Martzloff (Absent);
Dr. Richard B. Adams;
Dr. Frederick A. Kiehle (Absent).

PROCEEDINGS

Chairman Sears: The meeting will please come to order. We will try to make this as brief and simple as possible and extend you every possible courtesy. It is necessary,

however, to try the charges involved here. We will
8638 ask the Secretary to read those now, please.

Executive Secretary Foley: This letter went forward ----

Chairman Sears: Now, we have copies of these, so these can be — instead of being repeated in this transcript, these can be given to the reporter.

Executive Secretary Foley: You don't want them read?

Chairman Sears: They can be read and they can be labeled as exhibits.

(A copy of letter dated November 10, 1936 to Dr. H. R. Shields, from Multnomah County Medical Society, by Chairman, Board of Censors, was thereupon marked "Re Dr. Shields, EXHIBIT NO. 1" and is attached to the original of this transcript.)

(A letter dated November 9, 1936 to Dr. John C. Adams, Secretary, Multnomah County Medical Society, from the Grievance Committee, was thereupon marked "Re Dr. Shields, EXHIBIT NO. 2", and is attached to the original of this transcript.)

(A copy of letter dated November 10, 1936, to Dr. William F. Beck, from Multnomah County Medical Society, by Chairman, Board of Censors, was thereupon marked "Re Dr. Beck, EXHIBIT NO. 3", and is attached to the original of this transcript.)

(A letter dated November 9, 1936 to Dr. John C.
8639 Adams, Secretary, Multnomah County Medical Society, from the Grievance Committee, was thereupon marked "Re Dr. Beck, EXHIBIT NO. 4", and is attached to the original of this transcript.)

Executive Secretary Foley: Under date of November 10, 1936, the following letter was addressed to Dr. H. R. Shields, Times Building, Portland, Oregon:

(Executive Secretary Foley thereupon read Exhibit No. 1.)

Executive Secretary Foley: With that letter went forward a copy of the charges filed by the Grievance Committee and addressed to Dr. John C. Adams, under date of November 9th, as follows:

(Executive Secretary Foley thereupon read Exhibit No. 2.)

Dr. Mount: Mr. Chairman, is there any difference in the letters that were sent to Dr. Beck?

Chairman Sears: Mr. Secretary, is there any difference in the letters that were sent to Dr. Shields and Dr. Beck?

Executive Secretary Foley: No; they are identical, I believe.

Dr. Mount: Couldn't that be all done at the same time?

Chairman Sears: You mean instead of having each read? You see, they have both been submitted — have they not?

Executive Secretary Foley: No, just the one. They are separate notices and letters.

8640 Chairman Sears: But since the letters are identical, we can have them both labeled as exhibits.

Dr. Mount: There would be no objection on your part to consider them — reading them once, would there?

Dr. Shields: No.

Dr. Beck: No.

Dr. Mount: The same thing has been sent to Dr. Beck?

Chairman Sears: Yes.

Executive Secretary Foley: That is correct.

Chairman Sears: That being the case, we will ask the members of the Grievance Committee here to present — are you prepared to present some of your charges?

Dr. Richard B. Adams: Yes, I am.

Chairman Sears: Would either one or both of you gentlemen wish to make a statement now, before the Grievance Committee presents any of its evidence, or would you rather wait and discuss that? Dr. Shields, Dr. Beck — would either one of you wish to make any statement now prior to the time the Grievance Committee presents whatever evidence they have?

Dr. Shields: No.

Dr. Beck: No.

Chairman Sears: Dr. Adams.

Dr. Richard B. Adams: Mr. Chairman: The first statement of the Grievance Committee in their letter

8641 to the Secretary of the society is to the effect that Dr. Shields and Dr. Beck are associated with C. H. Weston Company of Portland, Oregon. Do either of you deny this connection?

Dr. Shields: I suppose it all depends upon what "association" means. We do work for them, as you know other men do, but we are not connected financially with them.

Dr. Richard B. Adams: That is, you are just paid a salary by them? And you, Dr. Beck, the same status?

Dr. Beck: Yes.

Dr. Richard B. Adams: Does the C. H. Weston Company pay your office rent?

Dr. Shields: Not directly.

Dr. Richard B. Adams: They do indirectly make such an allowance?

Dr. Shields: Indirectly, yes.

Dr. Richard B. Adams: And you have been associated with them to that extent for a number of years?

Dr. Shields: I have been there eight years.

Dr. Richard B. Adams: And you, Dr. Beck?

Dr. Beck: About five years.

Dr. Richard B. Adams: About five years. I don't believe it will be necessary to repeat some of the detailed grounds, inasmuch as I will introduce in evidence as an exhibit that transcript of the prior meeting with both Dr. Shields and Dr. Beck, which gives in its content more detailed statements concerning their relationship with the C. H. Weston Company.

The second statement: That the C. H. Weston Company and Dr. H. R. Shields and Dr. William F. Beck are engaged in the contract practice of medicine in such manner as to violate Chapter III, Article VI, Section 2, of the Principles of Medical Ethics, in that, first, they employ solicitation, directly or indirectly; and I read from the transcript of the previous meeting with these gentlemen, a statement of Dr. Shields in answer to a question of Dr. Sears: "What is the method of getting contracts? Dr. Shields: I believe they have one man that confines his time to the solicitation of industrial contracts; otherwise as far as I know it is largely through the contracts that they already have that they secure others."

I read from page 14, the question of Dr. Martzloff: "In competing with these other hospital association groups how does your hospital association sell its contracts and get customers from its competitors? Dr. Shields: Well, I do know that they have one paid solicitor and I suppose that they present different arguments — I don't know what they are, but most of the contracts that they have had they have had since I have been there. They have had Doernbecher, for instance, ever since I have been there; Crown Mills ever since I have been there, and they have secured some new ones but they haven't greatly enlarged their volume in that respect. They do have one paid solicitor that I know of.

8642

"Dr. John Adams: Does he solicit on a commission basis or a salary?

"Dr. Shields: I think it is a salary, although he may get some commission."

Then I wish to read from the Insurance Agents Directory of the State of Oregon as of May 23, 1936, page 68, the name listed, of F. H. Crosby, a miscellaneous agent for the C. H. Weston Company. Then I will introduce this as Exhibit No. 5.

(Page 68 of the Insurance Agents Directory as of May 23, 1936, State of Oregon, was thereupon marked "Re Drs Shields and Beck, EXHIBIT NO. 5, and the said Directory, including said Page 68, is attached to the original of this transcript.)

Secondly, under the heading (b) in the previously mentioned complaint: "The manner of conducting their practice, and its tendency and effect, is such as to prevent free choice of physician."

In substantiation of that, I read from the previous transcript, page 5, question by Dr. Sears: "How many physicians do they have working for them?" And Dr. Shields' answer: "They have Dr. Beck and Dr. Sisson and myself; we do most of the work at the office, and then they have consulting physicians over the city.

8643 "Chairman Sears: Are they on a salary or on a fee basis?

"Dr. Shields: I really don't believe they are on a salary, although I am not certain as to that. I think it is on a case basis, so much per case or whatever they agree to take care of it for.

"Chairman Sears: The office work is the routine work that comes in?

"Dr. Shields: That is the routine work in the office, yes. If we feel that they should be referred to a man in any particular line of work we suggest that. Most of the work is of an ordinary nature for minor things.

"Chairman Sears: In other words the men don't have very much of a choice of physicians? They are rather limited?

"Dr. Shields: Well, I suppose in the company they are limited. They can have the choice of anyone in the office there, and many times they go to the company and they let them go to whoever they wish.

"Chairman Sears: That is on special occasions, is it?

"Dr. Shields: Yes, I think it is. If they do not want to go to us they can go to whoever they wish.

"Chairman Sears: If each and every man chose his physician and knew that he could, of course they woudn't be so apt to be coming into the central office.

"Dr. Shields: No, that is true.

"Chairman Sears: It is only when a man understands if he pushes hard enough that he can get his choice?

8644 "Dr. Shields: Generally most of them are at least apparently willing to come there.

"Chairman Sears: But that isn't part of the policy of the company to express to the man that they have a reasonably free choice?

"Dr. Shields: Well, I think they are quite liberal in it. I know many times I have gone to the company and suggested that they would like to see someone else and generally it is carried out; not in all cases, however."

Then I would like to read from a certified copy—First we will have this marked as Exhibit No. 6.

(A certified copy of the Service Contract of C. H. Weston Company, entitled "Medical Service Policy" was thereupon marked "Re Drs Shields and Beck, EXHIBIT NO. 6, and is attached to the original of this transcript.)

I am reading from a specimen copy of the Medical Service Policy providing for medical, surgical, dental, ambulance and hospital service, made necessary by accident or illness as herein provided. "C. H. Weston Co., Incorporated under the Laws of the State of Oregon. Home Office, Portland, Oregon (Hereinafter Called The Company)"—Page 2, that section which is headed by the words "Emergency or Other Attention or Service:

8645 "(a) In the event the particular doctor or doctors designated by the company should not be available when called any other competent first-aid services may be employed by the insured at the expense of the company, but under no circumstances shall the liability of the company be more than in the amount of $5.00, regardless of what such other services may consist of, whether it be that of physicians or surgeons or hospital services, or for medicines or for anything else. The intent of this contract is that the company endeavors to provide the services, and that the company shall not be held liable for any services, except upon its refusal to furnish same, to the insured in lieu of such services as the company did not provide or did

not furnish, except to the limited extent hereinabove mentioned, $5.00."

In the previously mentioned complaint, Section 2, subheading (c): "The contract practice engaged in, and its practical results are contrary to sound public policy."

The C. H. Weston Company is a corporation which is in the hospital association business, the officers and directors of which are laymen.

I read from a letter from the Department of Insurance of the State of Oregon, which I will ask to have marked as Exhibit No. 7.

(A letter dated October 29, 1936, to George W. Mead, Attorney, Public Service Building, Portland,
8646 Oregon, from the Insurance Commissioner of the State of Oregon, signed by W. F. Leary, was thereupon marked "Re Drs. Shields & Beck, EXHIBIT NO. 7", and is attached to the original of this transcript.)

Dr. Richard B. Adams (Reading): "We are listing below"—I am not reading the entire letter—"We are listing below the names and addresses of officers and directors of the two hospital associations"—one of which is C.H. Weston Company. "Officers: C. H. Weston, President; W. F. Whitely, Vice-president, George D. LaRoche, Secretary. Directors: C. H. Weston, W. F. Whitely, George D. LaRoche."

Reading from page 3 of their specimen contract, previously marked as Exhibit No. 6: "No agent, solicitor or other person has any authority to waive or change any provision, requirement, rule or regulation contained herein. This policy shall constitute the entire contract."

That, we present as evidence of the fact that they, in drawing up the contract, have made provision for agents and solicitors.

Reading now from the transcript of the previous meeting, page 2, Dr. Sears asks: "Tell us something about the company and its organization. Is it a stock company? Dr. Shields: I really know very little about the company; I have no connection with it. Neither Dr. Beck or myself have any connection with the company other than that they hire us to do the work, and as I understand it,
8647 it is controlled largely by Mr. Weston and Mr. LaRoche and possibly one or two others. I am not acquainted with the other stockholders at all.

"Chairman Sears: Are the stockholders all lay individuals?

"Dr. Shields: I believe they are.

"Chairman Sears: Do you know how many stockholders there are?

"Dr. Shields: I am not certain. I don't imagine there are over five or six. It is Mr. Weston's family largely, and Mr. LaRoche. I think there is another, Mrs. Wrightman, if I understand correctly.

"Chairman Sears: Do you gentlemen have any voice in the policy of the organization?

"Dr. Shields: Not entirely, no. They often consult us. They generally follow our suggestions in certain cases, but not always."

Reading from page 7 of the previously mentioned transcript:

"Dr. Martzloff: Does your company confine its hospital contracts to any particular wage group or can anybody obtain the service?

"Dr. Shields: I think it is confined largely to group contracts of the regular employees. There may be a few of the higher wage earners get in.

8648 "Dr. Martzloff: Do you ever take care of the executives of an organization with which you have a contract?

"Dr. Shields: Very few.

"Dr. Martzloff: But you do occasionally take care of an executive?

"Dr. Shields: Well, the superintendent, I think, of Doernbecher's—that is, he is the superintendent of one floor; there are two superintendents on each floor—I think they come in under it, but most of the office employees are not covered, and I am sure none of the men higher up like Mr. Green or Mr. Beech or any of those are covered. It is practically all the employees, most of the men earning from I would say $60 to $100 per month."

Section 3 of the letter of complaint of the Grievance Committee to the Secretary: "That the C. H. Weston Company and Dr. H. R. Shields and Dr. William F. Beck have violated Chapter III, Article I, Section 4 of the said Principles of Medical Ethics, in that they procure patients by indirection through solicitors or agents."

We have this finding previously described how the C. H. Weston Company procure patients by solicitation or by

agents, and we cite the fact that Dr. Shields and Dr. Beck have made the statement that they are employed by the C. H. Weston Company to render medical care and thereby procure patients by indirection through solicitors or agents.

8649 Section 4: "That Dr. Shields and Dr. Beck have violated Chapter III, Article VI, Section 4 of the said Principles of Medical Ethics in that Dr. Shields and Dr. Beck dispose of their professional attainments or services in such a manner as to permit a direct profit from the fees, salary or compensation received to accrue to the C. H. Weston Company and its stockholders, all of whom are laymen." And we have presented evidence to the effect that the stockholders—that the officers and directors of the C. H. Weston Company are laymen, and the statement of Dr. Shields to the effect that he believes all of the stockholders to be laymen, and we cite the fact that inasmuch as the C. H. Weston Company collects fees from its subscribers and returns only a part of such fees to the doctors in its employ, therefore Drs. Shields and Beck are permitting a lay corporation to profit by fees paid for medical services in an indirect manner.

That constitutes the evidence upon which we based our complaint to the Grievance Committee.

Chairman Sears: Do either or both of you gentlemen wish to make any comments? The discussion is open.

Dr. Beck: I would like to say that in view of the fact that much of this has been given in briefed excerpts and the bulk of it in exhibits, I think it would be a fairer proposition to us to have an opportunity to go over the entire bulk of the evidence that is presented.

8650 Chairman Sears: That is fair. Would you like to read it now?

Dr. Beck: I think it would require some little time to go over it.

Dr. Richard B. Adams: I personally see no objection to that. There might be a little difficulty in arranging an exact time. I see no reason why at any reasonable time you wish to read these over or make copies of any portion of it —we of necessity must use some of these documents in connection with other matters and would not like to let them out of our possession.

Dr. Mount: A transcript of what has been given could be furnished to Drs. Shields and Beck.

(Discussion, off the record.)

Chairman Sears: I will ask you both, Dr. Shields and Dr. Beck, this question: Do you desire a transcript of the preliminary hearing, as well as the charges and discussion of charges so far this evening, before you make reply?

Dr. Shields: Yes.

Dr. Beck: Yes.

Chairman Sears: And this opportunity will be given you and you will have such transcripts early this coming week.

Dr. Mount: They desire to see copies of the transcripts?

Chairman Sears: Well they desire copies of such—

8651 Dr. Richard B. Adams: You desire to possess an additional copy?

Dr. Shields: Yes.

(Discussion, off the record.)

Chairman Sears: Dr. Beck and Dr. Shields have agreed that one copy of each of the two transcripts will be satisfactory; therefore, it being agreeable to Dr. Shields and Dr. Beck, we will send them a notice some time early this coming week of the date of the next meeting to consider their case further. It will be a continuation of this meeting tonight.

Dr. Richard B. Adams: Dr. Sears, may I introduce the entire transcript of the previous meeting as an exhibit in the present hearing?

Chairman Sears: It is so ordered.

(A copy of transcript containing excerpts of hearing in re Drs. H. R. Shields and William F. Beck held at Portland, Oregon, on November 2, 1936, before the Board of Censors of the Multnomah County Medical Society, was thereupon marked EXHIBIT NO. 8", and is attached to the original of this transcript.)

Dr. Mount: Mr. Chairman, I move Dr. Shields and Beck be thanked for their courtesy in attending, and be excused.

Dr. Benson: I second the motion that Drs. Shields and Beck be thanked for their courtesy which they have exhibited, and that they be excused.

8652 Chairman Sears: All in favor, signify by the usual affirmative, Aye. It is so ordered.

If there is no further discussion, we will then continue the meeting until a given date which will be decided upon this coming week.

(Which were all of the proceedings had on Friday, November 20, 1936, in re Drs. H. R. Shields and William F. Beck, and said hearing was continued to a later date to be decided upon.)

8653 STATE OF OREGON
County of Multnomah, ss.:

I, W. J. Looker, do hereby certify that I am an experienced and qualified shorthand reporter; that I reported in shorthand the proceedings had upon the hearing in re Drs. H. R. Shields and William F. Beck on the day and date and at the time and place hereinbefore specifically set forth; that I subsequently caused to be reduced to typewriting my said shorthand notes so taken upon the hearing of said matter, and the foregoing transcript, being pages numbered from 1 to 17, both inclusive, constitutes a full, true and accurate record of the oral proceedings had upon said hearing.

I further certify that Exhibits 1 to 8, inclusive, were the only exhibits introduced during said hearing, and said exhibits are attached to the original of said transcript of proceedings.

DATED at Portland, Oregon, this 23rd day of November, A. D. 1936.

(Signed) W. L. LOOKER
Shorthand Reporter.

8654 EXHIBITS 1 to 8, inclusive.

Hearing in re Drs. H. R. Shields and Wm. F. Beck
Held at Portland, Oregon, on
Friday, Nov. 20, 1936,
7:30 o'clock P.M.

8655 HUGH H. EARLE
INSURANCE
COMMISSIONER

J. M. SEHON, ASSISTANT
WM. L. GRAHAM, DEPUTY
REAL ESTATE DEPARTMENT

CHARLES H. MARTIN
Governor

(Emblem)

STATE OF OREGON

DEPARTMENT OF INSURANCE
FIRE MARSHAL DEPARTMENT
REAL ESTATE DEPARTMENT
COLLECTION AGENCY DEPARTMENT

SALEM

October 29, 1936

George W. Mead, Attorney
Public Service Building
Portland, Oregon

Dear Sir:

In response to your letter of October 26, we are inclosing one copy each of the service contract filed with this department by The Pumphrey Company and the C. H. Weston Company together with the department's certification of true copy.

It is to be understood these forms are basic forms. Peculiarities of certain risks necessarily require individual contracts suited to their particular need, and as the nature of such contracts cannot be foreseen filings are made only upon request.

We are listing below the names and addresses of officers and directors of the two hospital associations:

The Pumphrey Company

Officers—C. B. Pumphrey, Pres. Wilcox Building
Frank H. Hilton, V.P. " "
Mabel G. Pumphrey, Secy. " "

Directors—C. B. Pumphrey
Mabel G. Pumphrey
Frank H. Hilton

5694

C. H. Weston Company

Officers—C. H. Weston, Pres. Times Building
W. F. Whitely, V.P. " "
Geo. D. LaRoche, Secy. " "

Directors—C. H. Weston
W. F. Whitely
Geo. D. LaRoche

Yours very truly

HUGH H. EARLE
Insurance Commissioner

(Signed) W. F. LEARY
W. F. Leary

WFL:H

8656

STATE OF OREGON

Insurance Department

(Emblem)

I, HUGH H. EARLE, Insurance Commissioner and Custodian of the Seal of the Insurance Department of the State of Oregon, do hereby certify that I have carefully compared the annexed copy of the basic Service Contract of THE PUMPHREY COMPANY, an Hospital Association, and the annexed copy of the Service Contract of C. H. Weston Company, an Hospital Association, with the originals now on file in my office and that the same is a correct transcript therefrom, and of the whole thereof. I further certify that this authentication is in due form and by the proper officer.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Insurance Department of the State of Oregon.

Done at the Capitol, at Salem, Oregon, this 29th day of October, 1936.

(Signed) HUGH H. EARLE
Insurance Commissioner,

(SEAL)

8657 THIS AGREEMENT made in duplicate and entered into this _____ day of _____, 19____, by and between THE PUMPHREY COMPANY, a corporation organized under the laws of the State of Oregon, and hereinafter referred to as the Company, and _____ _____ of the State of _____, hereinafter referred to as the Contractor.

WITNESSSETH:—

The Company hereby promises and agrees to provide medical and surgical and hospital services, including specialists, dental services, medicines, medical and surgical appliances, X-ray and clinical labratory diagnosis, and physiotherapy as needed for the employees of the Contractor. The services to be rendered by the Company and more fully described as follows.

I.

OFFICE TREATMENT

The Contractor shall have the privilege of sending any of the said employees to the offices of the doctors of the Company for consultation or treatment during regular office hours and of calling on said doctors at any time in cases of emergency. For this purpose, the Company promises to maintain at designated places duly licensed physicians and surgeons and specialists, it being provided that in the event the particular doctor designated by the Company is not available when called, the Contractor may employ any other competent first aid services, at the expense of the Company, it being understood, however, that such first aid services shall not extend to operations, amputations and the setting of fractures. Cases requiring these services shall be directed to the hospitals.

II

MEDICINES

All necessary medicines and medical and surgical supplies and orthopedic appliances as required by the employees of the Contractor and as prescribed by the physicians and surgeons of the Company, provided, however, that the Company shall not be required to furnish such articles as artificial limbs, glass eyes, etc.

III

X-RAY DIAGNOSIS

X-ray diagnosis and clinical labratory findings as directed by the physicians and surgeons and specialists.

IV

Physiotherapy as directed by the surgeons of the Company.

V

HOSPITAL SERVICES

All the necessary hospital services at adequate and well appointed hospitals to be designated by the Company, said hospital services to include medicines, dressings, private recovery rooms in cases of major surgery, nursing, board, etc., and medical and surgical care and attention, it being understood that said hospital services shall not continue for a period longer than six months in any one case of sickness or injury, but after the expiration of six month's treatment in the hospitals necessary medical and surgical care by physicians and surgeons of the Company, including medicines will be continued for a further period of six months, and it being further understood that private rooms other than those stated above will be furnished only in those cases of a critical nature when in the judgment of the doctors attending, private rooms are required, and shall not continue for a longer period than fifty days for any one case. No monthly payment shall be required of any employee during the time he is in the hospital under the care of the Company.

8658

VI

SERVICES OF A PRIVATE NURSE

Services of a private nurse in the hospitals in those cases of a critical nature, when in the judgment of the doctors attending, a private nurse is required, provided that such services shall not continue for a longer period than fifty days in any one case.

VII

AMBULANCE SERVICE

Ambulance or other necessary conveyance will be furnished at the direction of said doctors, to and from the hospitals,

anywhere within the City Limits of towns where such service is available.

EXPENSE OF ATTENDANT:–Necessary actual expense of an attendant in accompanying the seriously sick or injured to the hospitals, when such attendant is ordered by the attending first aid doctors, or the foreman of the Contractor or other persons in authority.

VIII

MEDICINE CHESTS

Medicine chests including supplies of liniment, disinfectants, bandages, etc. to be placed in convenient places of the operations of the Contractor, on requisition of the Contractor; said supplies to be under the direction of the supervising officer of the Contractor and to be restocked as needed by the Company.

IX

DENTAL SERVICES

Dental services to the extent of extraction of teeth, and treatment for toothache, by duly licensed dentists to be designated by the Company.

X

It is expressly understood that the following cases are exempted from this contract and are not covered thereby to wit:

Insanity; pregnancy, and female disorders and conditions arising therefrom; conditions resulting from the use of intoxicating liquors, narcotics, or drugs; tuberculosis (except that the Company will make the necessary diagnosis including labratory findings); venereal diseases and conditions arising therefrom; removal of tonsils, and personal injuries and sickness of employees arising previous to the date of their employment and/or previous to the date of this contract. The provisions of this contract for the furnishing of hospital ambulance service shall not apply to disease subject by law to quarantine.

And in consideration of the promises and agreements of the Company to be kept and performed, the Contractor promises and agrees as follows:—

To pay to the Company at their offices in Portland, Oregon, on or about the fifteenth day of the month following that

for which payment is made, at the rate of one dollar and fifty cents, for each day and every employee who has worked three or more days before the fifteenth day of the month and at the rate of seventy five cents for each and every employee who has worked three or more days commencing after the fifteenth day of the month. From this amount the Contractor shall deduct the 1¢ per man per day payable to the State Industrial Accident Commission. Nothing herein contained shall be construed so as to release the Company from the obligation of rendering the full service covered herein to any employee who has in regular course come under its care.

For the purpose of auditing the payrolls of the Contractor, the Company shall have access to them at all reasonable times.

It is further understood and agreed that this contract shall remain in full force and effect for a period of one year from date, provided that each party shall during that time
8659 have the privilege of cancellation on the giving of thirty days' written notice.

It is understood and agreed by and between the parties hereto that the Company shall periodically inspect the plant of the Contractor and submit reports and recommendations as to the sanitary conditions in and about same.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed in duplicate by their duly authorized officers.

THE PUMPHREY COMPANY

by----------

by----------

8660 MEDICAL SERVICE POLICY

Providing for Medical, Surgical, Dental, Ambulance, and Hospital Service, made necessary by accident or illness as herein provided.

C. H. WESTON CO.
Incorporated under the Laws of the State of Oregon
Home Office, Portland, Oregon
(Hereinafter Called The Company)

IN CONSIDERATION of the Premium of_____ Dollars, and of the statements in the application for this policy, a copy of which is endorsed hereon and made a part of this policy, does hereby insure _____ of_____, herein referred to as the insured, a _____ by occupation, subject to all conditions and limitations hereinafter contained and endorsed hereon or attached hereto, from 12 o'clock noon, standard time on the day this policy is countersigned, until 12 o'clock noon, such standard time, of the first day of _____, 193__, and for such time thereafter as the premiums paid by the insured, as herein agreed, shall maintain this policy in force.

THE INSURING CLAUSE

This policy insures against (1) the effects resulting directly and exclusively of all other causes, from bodily injury sustained during the life of this policy solely through external, violent and accidental means (self-inflicted injuries, sane or insane, not included) and (2) illness which is contracted and begins during the life of this policy and after it has been maintained in force for thirty days from its date (except mental conditions, insanity, venereal diseases, pregnancy, or any disease, illness or injury affecting the organs peculiar to women and conditions resulting from the use of narcotics or drugs) as follows:

The Company Promises And Agrees To Provide medical and surgical and hospital services and for this purpose promises to maintain at designated places duly licensed physicians and surgeons. The services to be rendered by the company are more fully described below:

OFFICE TREATMENT

The insured shall have the privilege of calling at the offices of the company for consultation with or treatment by its doctors during regular office hours.

PHYSICAL EXAMINATIONS

a. Insured will be given medical examination once each year by the company's physicians.

b. Complete blood analysis.

c. Chemic and microscopic examination of urine every three months.

d. Detailed reports outlining the findings and recommendations of such analysis and examination.

RESIDENCE TREATMENT

When necessary, said doctors will be sent to the residence of the insured anywhere within the city limits of Portland, Oregon, to render service.

MEDICINES

All necessary medicines, medical and surgical supplies, and orthopedic appliances, as required by the insured, as prescribed by the physicians and surgeons and specialists of the company, provided, however, that the company shall not be required to furnish such articles as artificial limbs, glass eyes, false teeth, or repair broken teeth, etc.

X-RAY DIAGNOSIS

X-Ray diagnosis and clinical labratory findings as directed by the physicians and surgeons and specialists of the company.

DENTAL SERVICES

To the extent of extraction of teeth and treatment of toothache, by duly licensed dentists to be designated by the company, and x-ray of teeth when recommended by the company's dentists.

8661

OPTICAL SERVICES

Examination and tests of eyes by duly licensed optometrists to be designated by the company.

HOSPITAL SERVICES

All necessary hospital services at adequate and well appointed hospitals, to be designated by the company, in Portland, Oregon, to include medicines, dressings, private recovery rooms in cases of major surgery, and medical and surgical care and attention by the company's doctors, it being understood that said hospital services shall not continue for a period longer than six months in any one case of sickness or injury, but that after the expiration of six months' treatment in the hospital, necessary medical and surgical treatment by the company's doctors, including medicines, will be continued for a further period of six months, and it being further understood that private rooms, other than stated above, will be furnished only in those cases of a critical nature when in the judgment of the company's doctors attending private rooms are required,

and shall not continue for a longer period than fourteen days in any one case.

The services of the company doctors shall not continue for a longer period in any one case, from the beginning of the illness or from date of the accident, than twelve months.

AMBULANCE SERVICE

Ambulance or other necessary conveyance will be furnished at the direction of the company's doctors to and from hospitals anywhere within the city limits of Portland, Oregon.

EMERGENCY OR OTHER ATTENTION OR SERVICE

(a) In the event the particular doctor or doctors designated by the company should not be available when called any other competent first-aid services may be employed by the insured at the expense of the company, but under no circumstances shall the liability of the company be more than in the amount of $5.00, regardless of what such other services may consist of, whether it be that of physicians or surgeons or hospital services, or for medicines or for anything else. The intent of this contract is that the company endeavors to provide the services, and that the company shall not be held liable for any services, except upon its refusal to furnish same, to the insured in lieu of such services as the company did not provide or did not furnish, except to the limited extent hereinabove mentioned, $5.00.

(b) If the insured is injured or taken ill while away from the city of Portland, Oregon, and is therefore unable to take advantage of the company's facilities for rendering service, and requires medical or surgical care or attention the company, likewise, agrees to reimburse the insured for any such services as he may receive while away from the city of Portland, Oregon, up to an amount not exceeding $5.00 in any event.

(c) To collect the amount above specified, $5.00, or any part thereof, the insured is required to furnish the company with the attending physician's or surgeon's receipt for the amount so expended, and he will then be reimbursed up to an amount not exceeding $5.00. It is also provided that claim under this part of the policy must be made within thirty days from date of the accident or the beginning of the illness on account of which such services were required.

LIMITATIONS

The insurance hereunder shall not cover in case of tuberculosis, except that the company will furnish the diagnosis, including labratory findings; the provisions of this policy for furnishing hospital and ambulance services shall not apply to diseases subject by law to quarantine.

The company shall not be liable for any bills contracted by the insured for any medical, surgical, dental or hospital services, drugs, or for any other expenses whatsoever, except to the extent of $5.00, as hereinabove provided.

SUBROGATION

In the event the insured shall be injured, for which a third party is responsible or assumes liability, the company shall be subrogated to the rights of the insured against said third party to the extent of its disbursements or ex-
8662 penses for the insured's benefits hereunder, and the acceptance by the insured of the benefits under this policy shall constitute his agreement and assent to such subrogation, provided the company serves notice on the contract holder of its intention within 10 days after receipt of notice of disability.

The company reserves the right of terminating this policy or contract in case of any misrepresentation, unfairness or fraud on the part of the insured, and it is optional with the company whether the policy shall be reinstated after it has lapsed or become delinquent at any time. If default be made in payment of agreed premium for this policy, the subsequent acceptance of the premium by the company shall reinstate the policy, but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

The service under this policy shall not cover any person under the age of 16 years nor over the age of 60 years. Any premium paid to the company for any period not covered by this policy will be returned to the insured.

The benefits and provisions herein stated are in effect only when the insured is in food standing and the premium has been paid in advance.

No agent, solicitor or other person has any authority to waive or change any provision, requirement, rule or regulation contained herein. This policy shall constitute the entire contract.

IN WITNESS WHEREOF, the C. H. WESTON CO., of Portland, Oregon, has caused this contract to be signed by its President and Secretary and countersigned by a duly authorized representative of the company.

Countersigned at _____ this _____ day of _____ 19___.

(C. H. Weston)
President

_____
Secretary

_____
Authorized Representative

No action at law or in equity shall be brought to recover on this policy unless brought within eighteen months from the date of the beginning of the illness or the date of the accident on account of which claim is made.

Plaintiff's Exhibit 1922

8663 November 6, 1937

Dr. William F. Beck
Times Building
Portland, Oregon

Dear Dr. Beck:

At a meeting to be held in the auditorium of the Medical-Dental Building, 833 S. W. 11th Avenue, at 7:45 P.M., on November 15, 1937, the Board of Censors will consider the charges of unethical conduct filed against you on November 9, 1936.

You are required to be present at this meeting.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by_____
Chairman, Board of Censors

Plaintiff's Exhibit 1923

8664 November 18, 1937

Dr. William F. Beck
Times Building
Portland, Oregon

Dear Dr. Beck:

At a meeting of the Board of Censors of the Multnomah County Medical Society held on November 15, 1937, the Board considered the charges filed against you by the Grievance Committee on November 9, 1936.

The Board considered all the evidence and after due deliberation passed the following motion:

It is the sense and conclusion of the Board of Censors and the Board recommends to the Council that:

1. The charges filed by the Grievance Committee against Dr. William F. Beck have been sustained;
2. Inasmuch as Dr. Beck has declared his intention to withdraw from his association with unethical practice, that Dr. Beck be suspended from the Multnomah County Medical Society until April 1, 1938;
3. A copy of this resolution be transmitted forthwith to the Council.

Notice of this action has been transmitted to the Council of the Multnomah County Medical Society for its consideration.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by_____

Chairman, Board of Censors

Plaintiff's Exhibit 1924

8665 November 19, 1937

Dr. William F. Beck
Times Building
Portland, Oregon

Dear Dr. Beck:

The Council of the Multnomah County Medical Society has received a communication from the Board of Censors concerning a meeting of the Board held on November 15, 1937, at which it considered certain charges of unethical contract practice against you.

The motion adopted by the Board as its recommendation to the Council in regard to these charges has also been received by the Council for its consideration, together with transcripts of the evidence presented to the Board at the several meetings in which the Board considered the charges against you.

Under the By-laws of the Society, it becomes the duty of the Council to give this matter formal consideration without unnecesary delay.

This letter is to give you notice that a meeting of the Council will be held at the University Club on November 26, 1937 at 12:15 o'clock P.M., to give formal consideration to the charges fiied against you by the Grievance Committee on November 9, 1936, and to the recommendation of the Board of Censors adopted at its meeting of November 15, 1937.

At that time you will be given a full opportunity to be heard.

Very truly yours,

THE COUNCIL OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY

by_____
President

by_____
Secretary